

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF TEXAS
3 TEXARKANA DIVISION

4 CIVIL ACTION NUMBER 5:96CV91

5 THE STATE OF TEXAS

6 VS

7 THE AMERICAN TOBACCO COMPANY, ET AL

8
9
10 VIDEOTAPED

11 ORAL DEPOSITION

12 OF

13 KARL ROVE

14
15 August 26, 1997
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1 ANSWERS AND DEPOSITION OF KARL

2 ROVE, produced as a witness at the instance of
3 the Plaintiff, taken in the above-styled and
4 numbered cause on the 26th day of August, 1997
5 at 9:30 o'clock a.m. before Julie I. Upton, a
6 Certified Shorthand Reporter in and for the
7 State of Texas, at the Attorney General's
8 office, 300 West 15th Street, in the City of
9 Austin, County of Travis, State of Texas, in
10 accordance with the Federal Rules of Civil
11 Procedure.

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1 APPEARANCES

2

3 MR. MICHAEL LAWRENCE
4 Graves, Dougherty, Hearon & Moody
5 515 Congress
6 Suite 2300
7 Austin, Texas 78701

6 APPEARING FOR THE WITNESS

7

8 MR. CHARLES J. MIKHAIL
9 Scruggs, Millette, Lawson, Bozeman & Dent,
10 P.A.
11 734 Delmas Avenue
12 Pascagoula, MS 39567

13 MR. JERRY EVANS
14 Ness, Motley, Loadholt, Richardson & Poole
15 151 Meeting Street
16 Suite 600
17 Charleston, South Carolina 29402

18 MR. ROBERT A. SCHWARTZ
19 Williams & Bailey
20 8441 Gulf Freeway
21 Suite 600
22 Houston, Texas 77017-5001

23 MR. GREG THOMPSON
24 Provost & Umphrey
25 490 Park Street
Beaumont, Texas 77704

19

APPEARING FOR THE PLAINTIFF

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21

22

23 ALSO PRESENT: Mr. Shawn Budd, videographer

24

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1 PROCEEDINGS

2 THE VIDEOGRAPHER: Tape one.

3 We're on the record. You may swear in the
4 witness.

5 KARL ROVE,
6 the witness hereinbefore named, being of
7 lawful age and being first duly cautioned and
8 sworn in the above cause, testified on his
9 oath as follows:

10 MR. MIKHAIL: Do you want us
11 to identify ourselves for the videotape?

12 THE VIDEOGRAPHER: Up to you.

13 MR. MIKHAIL: Let's do that.
14 My name is Charles Mikhail. I'm from
15 Pascagoula, Mississippi. I represent the
16 State of Texas. I'm co-counsel for the State
17 of Texas in this litigation and at this
18 deposition.

19 MR. EVANS: Jerry Evans of
20 Charleston, South Carolina for the State of
21 Texas.

22 MR. SCHWARTZ: Robert
23 Schwartz, Williams & Bailey, Houston, for the
24 State.

25 MR. THOMPSON: Greg Thompson,

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1 Provost & Umphrey, Beaumont, Texas for the
2 State of Texas.

3 MR. LAWRENCE: I'm Michael
4 Lawrence. I'm here representing Mr. Rove.

5 THE WITNESS: Karl Rove.

6 EXAMINATION

7 BY MR. MIKHAIL:

8 Q. Mr. Rove, would you state your
9 full name for the record? It may be Karl
10 Rove.

11 A. Karl Christian Rove.

12 Q. Karl Christian Rove. All right.

13 How old are you, Mr. Rove?

14 A. 46.

15 Q. What year would you have been born
16 then?

17 A. 1950.

18 Q. 1950. Where do you live
19 currently, Mr. Rove?

20 A. [DELETED]

21

22 Q. And how long have you lived there?

23 A. Fourteen years. Thirteen years.

24 Q. And where did you live before
25 that?

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1 A. Lived on [DELETED]

2

3 Q. I'm glad somebody can remember a
4 previous address that far back.

5 Have you lived in [DELETED] or
6 in the surrounding area all your adult life?

7 A. No, I have not.

8 Q. All right. Where were you born?

9 A. Denver, Colorado.

10 Q. From Denver?

11 A. Yeah.

12 Q. And how long did you live in
13 Denver?

14 A. Lived in Denver nine years.

15 Q. And did your family move to Texas?

16 A. No. Moved to Nevada.

17 Q. And how long were you in Nevada?

18 A. Six years.

19 Q. And you would have been 15 by that
20 time?

21 A. Right.

22 Q. And did you then move to Texas?

23 A. No. Moved to Utah where I lived
24 for the following five years. And then
25 Washington, D.C. where I lived for seven

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1 years. And then a year in Virginia and then
2 to Texas.

3 Q. Okay. When you were in Utah --
4 when you left Utah, you were about 20 years
5 old?

6 A. I was 20 -- yes, 20.

7 Q. And you went to Washington?

8 A. Right.

9 Q. And what did you do in Washington?

10 A. I worked at the Republican
11 National Committee for most of the time I was
12 there, except for one year when I worked on
13 Capital Hill.

14 Q. In what capacity did you work with
15 the Republican National Committee?

16 A. For two years I was the executive
17 director of the College Republican National
18 Committee. And then for most of two years I
19 was the special assistant to the then chairman
20 of the national committee, George H. W. Bush.

21 I was then -- I worked -- in
22 between that I worked most of a year on
23 Capital Hill for Congressman Richard W.
24 Mallory of Vermont. Worked for Chairman
25 Bush. Then worked as the special assistant to

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1 his successor and then the chief of staff for
2 the vice chairman and co-chairman of the
3 committee, Richard Obenshain of Virginia.

4 Q. And when you left Washington you
5 were about 27?

6 A. I was -- 1976. So between --
7 almost 26.

8 Q. Okay. And where did you go from
9 there?

10 A. Richmond, Virginia.

11 Q. And what did you do in Richmond?

12 A. I was the finance director of the
13 Republican party of Virginia and the deputy
14 campaign director for Gerald Ford's Virginia
15 campaign.

16 Q. And how long did that last?

17 A. Most of a year.

18 Q. And what did you do after that?

19 A. Came to Texas. Worked briefly in
20 the Texas legislature during the session of
21 1977 for Fred Agnich of Dallas. And then
22 towards the end of the session moved to
23 Houston to go to work for George H. W. Bush
24 again to run his prepresidential PAC, the fund
25 for limited government, which I worked at

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1 until December of 1978.

2 Q. Okay. And how long were you in
3 Houston?

4 A. For most of two years.

5 Q. And in 1980?

6 A. 1978.

7 Q. '78?

8 A. Yeah, December of '78. January of
9 '79.

10 Q. Where did you go from there?

11 A. Came to [DELETED]

12 Q. Came to [DELETED]

13 lived [DELETED]

14 A. Right.

15 Q. Tell me what jobs you have held
16 since you moved to Austin in 1978.

17 Let me just ask you, you probably
18 have done this before, and I'll ask you about
19 it, but it's very difficult for her to take
20 both of us. Don't be too hurried to answer.

21 A. Okay. Sorry. I was deputy
22 political director for Governor Clements in
23 1978. I mean, 1979. And in 19 -- part of
24 1980. And then I was the director of the
25 Texas Victory Committee, which was the unified

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1 campaign effort for Ronald Reagan and George
2 Bush. And then I rejoined the Governor's
3 staff as the deputy chief of staff. Position
4 I held until October of '81 when I left to
5 begin my own business.

6 Q. My understanding, and I'm not as
7 familiar with Texas political history as
8 others may be, but a new governor went into
9 office in 1982; isn't that right?

10 A. Yes.

11 Q. Who was that?

12 A. 1983. Mark White.

13 Q. And Governor Clements, I also
14 understand, became governor again in -- well,
15 he won the '86 election and became governor in
16 '87?

17 A. That's correct.

18 Q. We'll get to your other business
19 in just a moment. But did you ever go back to
20 work for Governor Clements?

21 A. I was Governor Clements' chief
22 political consultant in 1985 and 1986 for his
23 reelection campaign.

24 Q. And when Governor Clements won the
25 election and went into office, did you assume

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1 any position with his administration?

2 A. No.

3 Q. Okay. And when he went into
4 office, did you continue to do the private
5 business that you had?

6 A. Yes.

7 Q. Okay. Let's go back to that. In
8 1981 -- is that right?

9 A. Uh-huh.

10 Q. Did I understand you to say that
11 you went into business for yourself?

12 A. Yes.

13 Q. And would you describe what type
14 of business that was?

15 A. Political campaigns and direct
16 mail.

17 Q. Tell me a little bit, just
18 briefly, what exactly do you do in that
19 business.

20 A. Yeah. We do several different
21 things. We devise campaign strategies for
22 candidates and help them execute the
23 strategies. We do fund-raising and voter
24 contact mail for political candidates and for
25 ballot referenda. And we do fund-raising

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1 through direct mail for fine arts museums and
2 conservation groups.

3 Q. Is that about it?

4 A. (Witness nods.)

5 Q. That's just a short description
6 of --

7 A. Uh-huh, sure.

8 Q. -- what work you do?

9 A. Right.

10 Q. When you went into business in
11 1981, what was the name of your business?

12 A. Karl Rove & Company.

13 Q. Karl Rove & Company?

14 A. Right.

15 Q. And were you in business by
16 yourself?

17 A. I had investors, but yes.

18 Q. How many people were together in
19 this business?

20 A. I had about seven investors.

21 Q. Seven investors?

22 A. Uh-huh.

23 Q. Was this a corporation?

24 A. Uh-huh. Yes.

25 Q. You able to name the seven

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1 investors for me?

2 A. Tobin Armstrong of Armstrong,
3 Texas. Pat Oles and his father, Dr. Pat Oles,
4 of Amarillo and Austin. Frank Laven who was
5 then of Washington, D.C. and is now of Hong
6 Kong. Bob Weed of Fairfax, Virginia. Doug
7 Brown of Dallas and subsequently his
8 daughter. Douglas Owen, and I can't remember
9 her married name, of San Antonio.

10 Q. That's all right.

11 A. And I believe that's it.

12 Q. That's six and then yourself was
13 seven?

14 A. Right.

15 Q. Were you a majority stockholder?

16 A. Yes.

17 Q. Just tell me very quickly what was
18 your relationship with Armstrong. Why did
19 you-all go into business together?

20 A. Personal friend. He and his wife
21 I've known for 30 years. I used to work for
22 her at the Republican National Committee when
23 I was college executive director. Frank Laven
24 is just a personal friend, contemporary. Same
25 with Bob Weed. Same with Pat Oles. And Doug

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1 Brown had been Governor Clements' chief of
2 staff.

3 Q. And what about Owen, Ms. Owen?

4 A. Daughter of Doug Brown. For
5 estate purposes he gave her over a series of
6 years parts of his investment.

7 Q. What about -- is it Mr. Oles?

8 A. Pat Oles. Right. Contemporary,
9 friend. We worked together in Governor
10 Clements' office. He's a real estate
11 developer in Austin.

12 Q. Which of these individuals had
13 background or experience in the type of
14 business you were going into other than
15 yourself?

16 A. Frank Laven and Bob Weed had both
17 been involved in politics from a professional
18 point of view at various times. And Tobin and
19 Ann Armstrong had been deeply involved in
20 politics. There was one other. I remembered
21 who the seventh was. Hillary Doran who had
22 been Governor Clements' deputy chief of staff
23 at one point and then had been his chief of
24 staff at another.

25 Q. Okay. Is this business, Karl Rove

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1 & Company, still in existence today?

2 A. Yes.

3 Q. Has it been in business

4 continuously since 1981?

5 A. Yes.

6 Q. Have the investors all been the

7 same?

8 A. All of the investors were bought

9 out.

10 Q. By who?

11 A. By me.

12 Q. And when was that?

13 A. It started in 1983 when for

14 personal reasons the Oles had to recoup their

15 investment. And finished by 1993.

16 Q. And how long have you been the

17 sole shareholder?

18 A. Since 1993.

19 Q. Since 1993. Mr. Rove, just tell

20 me -- just give me a brief rundown of your

21 educational background. Where did you go to

22 high school?

23 A. Went to Olympus High in Salt Lake

24 City, Holiday, Utah.

25 Q. And you graduated from high school

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1 there?

2 A. Yes.

3 Q. And did you attend any college?

4 A. I attended the University of Utah
5 in Salt Lake City for two years. I attended
6 the University of Maryland briefly. George
7 Mason University briefly. The University of
8 Texas at Austin in 1977. The University of
9 Houston in 1977 and '78. And I'm back at the
10 University of Texas.

11 Q. Decided to try them all?

12 A. Exactly.

13 Q. Which -- did you graduate from any
14 college?

15 A. No. I had hoped to graduate
16 before I began teaching at the LBJ school but
17 failed in that. And I hoped to get my BA
18 before I enter the Ph.D. program in the fall
19 of '98 at the University of Texas.

20 Q. Currently you don't have a
21 bachelor's degree?

22 A. No, I don't.

23 Q. Have you done any teaching at all
24 at a college level?

25 A. Yes.

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1 Q. And where is that?

2 A. At the Lyndon Baines Johnson
3 graduate school here at the University of
4 Texas.

5 Q. And how long have you been doing
6 that?

7 A. I taught a semester class last
8 year.

9 Q. What was the class in?

10 A. Political campaigns.

11 Q. And are these undergraduate
12 students or graduate students or what is the
13 makeup of --

14 A. Graduate students.

15 Q. -- of the students.

16 A. Right, graduate students.

17 Q. I'm a former college professor,
18 and I just wanted to ask you how did you
19 manage to get a teaching position without a
20 college degree?

21 A. I'm very good at what I do.

22 Q. Because of your background and
23 experience?

24 A. Right.

25 Q. Did you know anybody? Did you

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1 have connections?

2 A. No. Not if you're a Republican
3 and you're asked to teach at the Lyndon Baines
4 Johnson school of public policy. I don't
5 think it generally has to do with your
6 political pull.

7 Q. Did you apply for the job or did
8 someone invite you?

9 A. No. They asked me to do it.

10 Q. It was not at your initiation?

11 A. No.

12 Q. Who was it that asked you?

13 A. Dean Mac Sherman.

14 Q. Dean Mac Sherman?

15 A. Right.

16 Q. What did Mr. Sherman or Dean
17 Sherman tell you that he wanted you to do?

18 A. Teach a class in American
19 politics, political campaigns. They've
20 traditionally offered such a course at the
21 university at the LBJ school.

22 Q. At the time you were teaching, did
23 you concurrently still run your business?

24 A. Sure.

25 Q. Okay. Was this like a night

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1 course?

2 A. No. It was three hours during the
3 day on Fridays from 9:00 to 12:00.

4 Q. Were you actually a part-time or
5 adjunct faculty member?

6 A. Adjunct member.

7 Q. Listed as a faculty member?

8 A. Right.

9 Q. You weren't doing this pro bono?

10 A. Right.

11 Q. You got a paycheck from the
12 university?

13 A. I didn't know that was part of the
14 deal, but yes, I did.

15 Q. And you were considered an
16 employee, then, of the State of Texas?

17 A. Right.

18 Q. And how long did you teach, or are
19 you currently teaching?

20 A. Well, I taught a summer session --
21 I mean, the spring session of the last
22 academic year. I still have a number of
23 student projects that I'm involved in. They
24 ask you to make yourself available to be a
25 reader of certain papers, or to in essence

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1 help people read and finish their master's
2 thesis.

3 Q. Did you assist graduate students
4 in graduate papers and doing their master's
5 thesis?

6 A. Yes.

7 Q. Were you ever assigned as an
8 advisor or graduate advisor for any of these
9 students in political campaigning or politics?

10 A. No.

11 Q. Were other faculty members doing
12 that?

13 A. I don't know the procedure at the
14 school on that, whether they're assigned
15 individual advisors. They are assigned
16 individual teams of two readers on their
17 papers. And that's -- I've got a graduate
18 student that I'm doing that for, and then a
19 Plan Two undergraduate student that I'm doing
20 that for.

21 Q. Have you ever been on a committee
22 that actually signed off and approved oral
23 examinations for master's students or
24 approving drafts of their graduate thesis?

25 A. Yes.

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1 Q. All right. About how many?

2 A. The one graduate that I'm doing
3 now.

4 Q. And it was all in the course of
5 American politics?

6 A. (Witness nods.)

7 Q. Did you teach any other course
8 there?

9 A. No.

10 Q. Is there any more that you want to
11 tell me about your educational background?

12 A. No.

13 Q. Okay. Mr. Rove, let me just
14 switch subjects for a moment. And, by the
15 way, let me tell you this. My practice is to
16 stop for five or 10 minutes every hour on the
17 hour. I don't like to go more than an hour.
18 So if I fail to watch the time, you-all remind
19 me. I think it's good for the witness and
20 good for all of us to take a break usually
21 about that time. So --

22 MR. LAWRENCE: Okay.

23 Q. (By Mr. Mikhail) Mr. Rove, I'm
24 going to hand you what has already been marked
25 as Exhibit 1 to your deposition. And I'm

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1 going to ask you if you would take a look at
2 it and have your counsel also look at it with
3 you.

4 You recognize Exhibit 1? It's
5 just another copy of --

6 A. Yes.

7 Q. Okay. And that is the Notice of
8 Video Deposition and Stenographic Deposition
9 in the State of Texas cause of action against
10 various members of the tobacco industry; isn't
11 that right?

12 A. Yes.

13 Q. And it has a subpoena, which was
14 served on you, I believe, on the 15th of
15 August; is that right?

16 A. Yes, I believe so.

17 Q. If you will take a look -- I think
18 you have a copy in front of you, if you'll
19 just give me Exhibit 1 and let me read from
20 it. In the subpoena that you received, it
21 requests that you bring with you to the
22 deposition --

23 A. Excuse me.

24 Q. You need some water?

25 A. No. I have a very bad cold. So

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1 if I hack, I'm sorry.

2 Q. If you want some water, we can
3 arrange to get it for you.

4 A. Thank you.

5 Q. It asks that you bring all
6 documents relating to your lobbying activities
7 on behalf of or for the benefit of or in any
8 way relating to the tobacco industry or
9 relating to tobacco in the State of Texas.

10 Did you bring any documents, which
11 would be responsive to this subpoena?

12 MR. LAWRENCE: Could I answer
13 that? Yes, he has brought documents but
14 technically his answer to the subpoena would
15 be that there are no documents that are
16 responsive because he's never been employed as
17 a lobbyist on behalf of any tobacco interest
18 or tobacco companies. So technically he
19 hasn't got any documents, but in order to
20 avoid any kind of misunderstanding or so
21 forth, he has been hired by Philip Morris and
22 so he has brought the documents that he has
23 relating to that employment with him. You can
24 ask him about that.

25 MR. MIKHAIL: That's fine.

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1 Q. (By Mr. Mikhail) We will take a
2 look at them during break rather than
3 interrupt the deposition now.

4 A. Sure.

5 Q. I appreciate you bringing these
6 documents with you. The request is a bit
7 broader than that limited to lobbying
8 activities. It says, Or any documents
9 relating to tobacco.

10 Are the documents that you
11 produced today all documents in your
12 possession, custody or control that relate to
13 tobacco in the State of Texas?

14 A. Yes.

15 Q. Okay. Mr. Rove, you were served
16 according to the certificate by the process
17 server on the 15th of August. I believe that
18 was on a Friday; isn't that right?

19 A. Uh-huh.

20 Q. When you first got the subpoena,
21 when it was served on you, what did you do?

22 A. I called my attorney, David
23 Herndon, and he was out of town. I left a
24 message for him. And his assistant gave a
25 message to Mike Lawrence, who also handles

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1 some legal business for me at Graves

2 Dougherty.

3 Q. Okay. David Herndon is an

4 attorney with the same firm as Mr. Lawrence?

5 A. Yes.

6 Q. And is David Herndon your personal

7 attorney?

8 A. Yes.

9 Q. A lot of people don't have

10 personal attorneys, but when you say personal

11 attorney -- and I'm not trying to get into

12 your business -- but what was the personal

13 attorney for? What type of things did you

14 have a need for a lawyer for?

15 A. Well, will, documents connected

16 with my business. Contracts for my business.

17 My child's trust and estate. We had a large

18 lawsuit against a former client who didn't pay

19 his bill, and David Herndon was in charge of

20 that litigation.

21 Q. Okay. And has Mr. Lawrence

22 represented you in those types of services in

23 the past also?

24 A. Yes. Yes. Mr. Lawrence was my

25 attorney in the large case we had Rove V

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1 Thornburg.

2 Q. And did you speak with

3 Mr. Lawrence that day?

4 A. I can't remember if we talked that
5 day or if we talked Monday. But we talked
6 shortly thereafter.

7 Q. Did you meet with him?

8 A. No.

9 Q. Talk to him on the phone?

10 A. Yes.

11 Q. Did you fax him or send him a copy
12 of the subpoena?

13 A. Yes. I sent it to David Herndon.

14 Q. To David Herndon?

15 A. Yes.

16 Q. And obviously it got to
17 Mr. Lawrence?

18 A. Right.

19 Q. Did you and Mr. Lawrence have a
20 subsequent meeting, or Mr. Herndon, regarding
21 the subpoena?

22 MR. MIKHAIL: And I'm not
23 getting into attorney-client privilege, Mike.

24 Q. (By Mr. Mikhail) I simply want to
25 know if you had a conversation with him.

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1 A. We had conversations but we did
2 not meet.

3 Q. You did not meet? Did you have
4 conversations over the telephone?

5 A. Yes.

6 Q. Okay. What was the nature of the
7 conversations? Was it regarding the scope of
8 the document request? Was it regarding
9 scheduling of the deposition? What was the
10 nature of the conversation?

11 A. It was regarding our efforts at
12 Rove & Company to recover the documents and to
13 arrange them and to send them over and have
14 them look at them and that was about it.

15 Q. In other words, for you to send
16 the documents that you believed would be
17 responsive to the subpoena to your attorneys
18 so that they could take a look at them and you
19 could comply with the subpoena?

20 A. Yes.

21 Q. All right. Mr. Rove, did you at
22 any time or to your knowledge did your
23 attorneys contact any attorneys for the
24 tobacco defendants in this litigation in
25 connection with the subpoena that you

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1 received?

2 A. Not that I'm aware of.

3 Q. You did not personally?

4 A. No.

5 Q. And no one on your behalf to your
6 knowledge; is that right?

7 A. Yes.

8 Q. Okay. You didn't talk to any of
9 the attorneys by telephone?

10 A. No.

11 Q. You did not correspond with them?

12 A. No.

13 Q. Did you send them the subpoena?

14 A. No.

15 Q. Did you tell Philip Morris, not
16 attorneys for Philip Morris, but any other
17 nonattorney representative or someone
18 affiliated with Philip Morris about the
19 subpoena?

20 A. I believe Mike talked to them this
21 morning and told them we were coming.

22 Q. To your knowledge did Mr. Lawrence
23 or any of your attorneys speak to them before
24 this morning?

25 A. No, not to my knowledge.

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1 Q. And were you privy to the
2 conversation that Mr. Lawrence had with Philip
3 Morris this morning?

4 A. He recounted it here as we were
5 riding up in the elevator.

6 Q. And what did he recount to you?

7 A. Just that we were coming for a
8 deposition and turning over what documents we
9 had.

10 Q. Did you provide copies of the
11 documents that you are furnishing today to
12 Philip Morris before the deposition today?

13 A. No.

14 Q. Did you identify or did anyone on
15 your behalf, including Mr. Lawrence, to your
16 knowledge identify to Philip Morris or any
17 other defendant or any other attorney for a
18 defendant the identity of the documents, like
19 a list of the documents or a description of
20 the documents that you brought with you here
21 today?

22 A. No.

23 MR. LAWRENCE: I need to make
24 the record clear. Mr. Rove doesn't know about
25 it, but I had provided those to Philip Morris

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1 yesterday.

2 Q. (By Mr. Mikhail) Mr. Rove, did
3 Mr. Lawrence discuss with you prior to the
4 statement that he made on the record today
5 that he was going to be furnishing the
6 documents or copies of the documents to Philip
7 Morris?

8 A. No.

9 Q. You just learned of it today?

10 A. This moment.

11 Q. Okay. Mr. Rove, do you have any
12 sort of agreement or any kind of understanding
13 whatsoever with Philip Morris or with any
14 attorneys for Philip Morris for
15 indemnification to indemnify you for any
16 attorney's fees that occurred in connection
17 with your appearance here at the deposition
18 today?

19 A. No.

20 Q. Have you discussed that with
21 this -- this subject about indemnification of
22 your expenses with your attorney?

23 A. No.

24 Q. Attorney's fees or expenses? You
25 have not discussed either one, about getting

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1 them indemnified by Philip Morris?

2 A. No, and I have no intention to.

3 Q. Do you know if your attorney has
4 discussed that with any attorney for Philip
5 Morris?

6 A. No.

7 Q. Do you know if your attorney --
8 and when I say "your attorney," I don't mean
9 just Mr. Lawrence, Mr. Herndon or anyone else
10 representing you who may not be here today,
11 about approaching Philip Morris or any of its
12 attorneys or representatives about arranging
13 for reimbursement indemnification of those
14 expenses?

15 A. No.

16 Q. Have you spoken with your
17 attorneys about how they are going to be
18 compensated for representing you in connection
19 with this subpoena and deposition?

20 A. No. My assumption is they'll send
21 me a bill and I'll pay it.

22 Q. You have not specifically
23 discussed the arrangement?

24 A. No, but we have a long-standing
25 relationship of 13 years, and I assume that

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1 they'll send me a bill and I'll pay it.

2 Q. Okay. I don't know if this is a
3 quote, Mr. Rove, or just a recount by -- a
4 paraphrase by the reporter, but I am looking
5 at an article that appeared in the Dallas
6 Morning News on June 7, 1996 after your name
7 was listed as a possible witness in the state
8 tobacco litigation. And the article -- and
9 I'm going to read to you just a portion of
10 it -- says Mr. Harkrider -- is that how -- am
11 I pronouncing it correctly?

12 A. I assume. I don't know.

13 Q. You don't know who that is?

14 A. I know him, but I don't know if
15 that's a proper pronunciation.

16 Q. Mr. Harkrider did not return a
17 telephone call, but both Mr. Rove and
18 Mr. Tisdale said the list, talking about the
19 witness list, had nothing to do with the
20 so-called, quote, push polling, end of quote,
21 employed in gaging purported sentiment towards
22 Mr. Morales.

23 Did you tell a reporter for the
24 Dallas Morning News, I believe it was written
25 by Bruce Nichols, what he has recounted here,

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1 that the list, and your being on it, of
2 witnesses did not have anything to do with the
3 push polling?

4 A. I don't remember that remark.

5 Q. Okay. You don't remember saying
6 that?

7 A. I don't.

8 Q. Had you seen this article when it
9 was published?

10 A. Yes, I did.

11 Q. Did it strike you as inaccurate
12 or -- he didn't quote you.

13 A. Right.

14 Q. He referred to what you had said.

15 A. It struck me as odd because my
16 recollection, and of course this is some time
17 ago, but my recollection of the conversation
18 was that I said I didn't know what this had to
19 do with it. I assumed that it was, and I
20 think I'm quoted in there that I thought it
21 was just a nuisance. But, no, I do not recall
22 saying that this had --

23 Q. Nothing to do with the push
24 polling?

25 A. Right. I don't know.

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1 Q. When it struck you as odd, did you
2 call Mr. Nichols or the Dallas Morning News to
3 correct them or ask them why it appeared this
4 way?

5 A. No.

6 Q. Is it your testimony, Mr. Rove,
7 that this is an inaccurate -- I'm not saying
8 untruthful, I'm saying inaccurate
9 representation?

10 A. Yes. I don't recall it as being
11 accurate, right.

12 Q. Okay. The article further says,
13 and you're welcome to look at it, but I'm
14 going to read you a portion of it.

15 MR. MIKHAIL: Mr. Lawrence,
16 you're also welcome to look at it if you
17 want.

18 Q. (By Mr. Mikhail) If called,
19 Mr. Rove said he could testify to giving
20 Philip Morris advice on elections; and, quote,
21 the political landscape, end quote, but not
22 much else. Is that correct?

23 A. Yes.

24 Q. When you said that you could
25 testify about giving Philip Morris advice on

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1 the political landscape, what were you talking
2 about?

3 A. I had -- I was brought aboard by
4 Philip Morris in '91 and towards the end of
5 the legislative session for a specific
6 purpose. And after that legislative session,
7 was retained by Philip Morris in an ongoing
8 capacity to basically advise them on
9 elections, to give them my best feelings about
10 what was going to happen in elections, what
11 was shaping up in terms of candidates,
12 political gossip about who was raising money
13 and who was likely to get elected.

14 I was brought in in '91 and '92
15 because they had a Democrat consultant that
16 was providing them information about election
17 contests and the political environment in
18 Texas that they felt was giving them an overly
19 democratic perspective and they wanted to
20 balance it by having a Republican.

21 And so I was, in essence, as
22 you'll see in the documents, what's left of
23 them, basically over the next five years, six
24 years, basically asked to give them regular
25 reports on what was likely to happen in the

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1 elections. And advised them on what districts
2 were winnable from a Republican perspective
3 and how various contests were shaping up and
4 how candidates were doing in fund-raising.

5 In some instances, I was asked to
6 give them information about the political
7 situation in other states with which I'm
8 familiar and in which my firm operates and
9 about other political figures that I might be
10 able to find information out about.

11 Q. Okay. This reference by
12 Mr. Nichols, though, is correct that you said
13 that you'd be giving -- that you could testify
14 to giving Philip Morris advice on the
15 elections and political landscape?

16 A. Yes.

17 Q. We'll get into that in just a few
18 minutes.

19 Mr. Rove, have you given testimony
20 at a deposition before?

21 A. Yes.

22 Q. How many times?

23 A. Once, that I recall.

24 Q. Just generally what type of case
25 was it?

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1 A. It was a case I mentioned earlier
2 where Rove & Company was suing a former client
3 who didn't pay his bill.

4 Q. Okay. And what was the outcome of
5 that case?

6 A. We won.

7 Q. Okay. Did it go to trial?

8 A. Went to Federal District Court in
9 Austin, and then was appealed to the Fifth
10 Circuit.

11 Q. And you won at the Fifth Circuit?

12 A. Decidedly.

13 Q. Other than that one deposition,
14 you don't recall giving any other depositions?

15 A. I don't.

16 Q. Okay. How about at trials? Did
17 you, other than this trial, did you testify at
18 any other trial?

19 A. I was called as an expert witness
20 in a case in San Antonio involving a dispute
21 between an advertising agency and its client,
22 or the advertising agent and a supplier I
23 guess it was. And other than one case, I
24 don't recall being called to testify.

25 Q. Does that include both civil and

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1 criminal trials? I'm talking about trials.

2 A. Yes. Both. I did testify. No,
3 it does. I was -- I did testify in a case
4 involving Senator Kay Bailey Hutchinson here
5 in Austin.

6 Q. Was that at a trial?

7 A. It was -- it was a hearing
8 regarding change of venue.

9 Q. What type of proceeding was this?
10 Was it in a court, or was it in an
11 administrative board?

12 A. Court.

13 Q. In a court?

14 A. Right.

15 Q. Which court was that?

16 A. Travis County District Court.

17 Q. That's the State court?

18 A. Right.

19 Q. And you testified in that hearing?

20 A. Yes.

21 Q. Were you testifying on behalf of
22 one party or another?

23 A. Yes.

24 Q. And which party were you
25 testifying for?

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1 A. Senator Hutchinson.

2 Q. Senator Hutchinson was one of your
3 clients?

4 A. Yes.

5 Q. I'm talking about Karl Rove &
6 Company clients. Is that correct?

7 A. Yes.

8 Q. Have you ever testified before
9 administrative boards or proceedings or
10 commissions?

11 A. Legislative committees, but that's
12 it.

13 Q. But not administrative boards or
14 hearings or commissions to the best of your
15 recollection?

16 A. Not that I recall.

17 Q. All right. Legislative
18 committees, what type of issues did you -- let
19 me strike that.

20 How many times have you testified
21 before legislative committees?

22 A. Twice.

23 Q. And on what issues?

24 A. My confirmation to be a regent at
25 East Texas State University. And my

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1 confirmation to be a regent at Texas Woman's
2 University.

3 Q. Did you get confirmed in both
4 instances?

5 A. No.

6 Q. You were not confirmed?

7 A. No.

8 Q. What was the reason, do you know?

9 A. I was appointed by a Republican
10 governor in each instance a year or two before
11 the Republican governor left office but after
12 the legislative session. So I then had the
13 misfortune to come before the legislative
14 session after the Republican governor had left
15 office and been succeeded by a Democrat. I
16 have a reputation as a Republican. And so
17 though I gained a majority of the votes in the
18 Senate, I did not gain the requisite 21 votes
19 in order to gain confirmation.

20 Q. You attribute that to political
21 reasons?

22 A. It's widely attributed -- not
23 simply by me, but by editorial boards -- to
24 political reasons.

25 Q. You may be -- and generally in

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1 many states it's the same, actually I think in
2 all states it's the same -- but have you ever
3 testified in any closed proceedings like grand
4 jury proceedings or anything like that, if
5 you're at liberty to talk about it?

6 A. No.

7 Q. You never testified before a grand
8 jury?

9 A. No.

10 Q. State or Federal?

11 A. Not that I recall, no.

12 Q. The proceeding with Senator -- now
13 Senator -- is it Kay Bailey Hutchinson?

14 A. Yes.

15 Q. At the time she was not senator,
16 was she? She was not U.S. senator, she was
17 treasurer, I believe?

18 A. No, she was a member of the U.S.
19 Senate at that point.

20 Q. At that point she was. But the
21 events that were the subject of the proceeding
22 were when she was treasurer of the State of
23 Texas? Was it treasurer or secretary of
24 state?

25 A. She was state treasurer at the

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1 time of the alleged incident, but the charges
2 were brought after she had been elected to the
3 U.S. Senate.

4 Q. What was the outcome of that
5 proceeding in which you testified?

6 A. The change of venue was granted.

7 Q. To where?

8 A. Fort Worth.

9 Q. Was it her motion or her side's
10 motion --

11 A. Her motion.

12 Q. -- to change venue?

13 A. Yes.

14 Q. And what was the nature of the
15 testimony that you gave --

16 A. That the --

17 Q. -- in support of the change of
18 venue?

19 A. My testimony was that it was my
20 professional opinion that the coverage of the
21 case in Austin had created an unnecessarily
22 negative environment that would make it
23 difficult to find a fair and impartial jury.

24 Q. Okay. How long have you been
25 associated, Mr. Rove, with the current

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1 Governor of Texas, Governor George Bush? I
2 understand that you are a consultant to the
3 Governor; isn't that correct?

4 A. Yes.

5 Q. How long have you been associated
6 with Governor George Bush? And when I refer
7 to George Bush in this deposition, I'm
8 referring to the Governor of Texas. I will
9 not be referring to the former president.

10 A. We met when I worked for his
11 father in Washington. He was at Harvard
12 Business School. And have been friends and
13 associates since then.

14 Q. And when was that, what year?

15 A. 1973 or '4.

16 Q. He was at Harvard Business School?

17 A. Yes.

18 Q. Was that acquaintance because of
19 your relationship with his father, having
20 worked with his father?

21 A. Yes. I was supposed to give him
22 the car keys whenever he came to town.

23 Q. Did you have any sort of
24 professional relationship with him? Were
25 you-all in business together? Did you have

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1 any kind of projects or political campaigns or
2 anything that you worked together on?

3 A. I helped in his 1978 campaign when
4 I was still working for his father in Houston
5 when he ran for Congress. Not in a
6 professional capacity, just a personal
7 capacity.

8 Q. On a volunteer basis?

9 A. Yes.

10 Q. That was a 1978 race for what?

11 A. U.S. Congress.

12 Q. Did he win?

13 A. No.

14 Q. In the volunteer position that you
15 had with him, did you have a title --

16 A. No.

17 Q. -- in his campaign?

18 A. No.

19 Q. You were not officially on his
20 campaign staff?

21 A. No. I was working for his father
22 at the time.

23 Q. Okay. In 1978 after he lost, did
24 you have any further relationship with him
25 before the current association?

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1 A. Sure.

2 Q. Let's take it from 1978 forward.

3 A. Sure. We saw each other and
4 worked in common cause for his father in 1980,
5 and then saw each other over the course of the
6 1980s sporadically. Worked together a lot in
7 his father's 1988 campaign. We talked in 1989
8 or 1990 about the prospect of him running for
9 Governor in Texas, which he ultimately decided
10 not to do. And just stayed in touch, saw each
11 other occasionally. Talked by phone
12 throughout the late '80s and '90s.

13 Q. Okay. When did he run for
14 Governor?

15 A. He made the decision to run in
16 1993 and ran in the '94 general election.

17 Q. He decided to run in 1993. Did
18 the campaign start in '93?

19 A. '93.

20 Q. And he was elected in November? I
21 mean, is it a fall election here?

22 A. Yes, November '94.

23 Q. When he decided to run, did you
24 have an official position with his campaign
25 for governor?

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1 A. Yes.

2 Q. And what was that position?

3 A. I was the general consultant.

4 Q. General consultant? Was that an
5 actual position, that title?

6 A. Yes.

7 Q. And did you receive a salary from
8 the campaign?

9 A. I received a retainer.

10 Q. How many general consultants did
11 George Bush have for that campaign?

12 A. One.

13 Q. So you were -- you occupied that
14 position?

15 A. Yes.

16 Q. And when he got elected in 1994,
17 did he assume office in January of 1995?

18 A. Yes.

19 Q. Did you assume any official
20 position with his administration?

21 A. Not within the government, no.

22 Q. All right. What type of position
23 did you assume that was somehow associated
24 with Governor Bush?

25 A. I became director of his political

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1 committee.

2 Q. January 1995?

3 A. Yes.

4 Q. The title was director?

5 A. Governor Bush Committee.

6 Q. What does the director of Governor
7 Bush Committee do or did?

8 A. We are the fund-raising vehicle
9 through which all funds are raised and
10 disbursed. We do -- we touch base with the
11 political organizations, both the Bush and
12 Republican leaders about prospective
13 appointees. We handle the Governor's
14 political schedule and political travel. And
15 all of the political correspondence.

16 Q. What else?

17 A. Handle the Governor's political
18 affairs.

19 Q. Was this a position that had a
20 salary to it? I mean, did you get compensated
21 for this position?

22 A. I got compensated, yes, my firm
23 did.

24 Q. Who paid you?

25 A. The Governor Bush Committee.

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1 Q. Was it Karl Rove & Company that
2 was hired or Karl Rove individually?

3 A. Well, Karl Rove & Company was
4 retained. For example, the controller of my
5 company keeps the books, has kept the books
6 for the Governor Bush Committee. So she was
7 responsible for making up the deposits,
8 writing all the checks, balancing the books,
9 providing all the financial reports and
10 supervising the compliance on the expenditure
11 side.

12 Q. I guess what I'm asking, and I'm
13 sorry to confuse you, are you saying that the
14 corporation, Karl Rove & Company, was director
15 of the Governor George Bush Committee, or was
16 it Karl Rove individually who was the
17 director?

18 A. I'm individually the director, but
19 the compensation is paid to my firm.

20 Q. And why was that arrangement done
21 that way?

22 A. That's the way we've always done
23 it. I have 12 employees. And rather than
24 taking the money and pocketing it, it goes
25 into the company's coffers. We have other --

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1 it's not simply my services that we're
2 providing. Controller is providing services.
3 My assistant is providing services by taking
4 phone calls and returning phone calls and so
5 forth. So it just seemed unusual if I were to
6 take the salary and pocket it as opposed to
7 put it in the company's coffers.

8 Q. When the check came from -- did it
9 come from the Governor Bush Committee?

10 A. Yes.

11 Q. Was there a bank account for that
12 committee?

13 A. Yes.

14 Q. And who was the check made payable
15 to?

16 A. Rove & Company.

17 Q. It was made to the corporation?

18 A. Yes.

19 Q. When you said a moment ago that
20 part of the duties as director of the Governor
21 Bush Committee was to handle the Governor's
22 political schedule and travel, did handling
23 his political schedule involve being a party
24 or being a -- participating in the
25 decision-making process of who the Governor

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1 sees and when?

2 A. If they were a political person,

3 yes.

4 Q. And you would give advice to the
5 Governor on whether or not to see this person
6 and on what issues and where and when? I
7 mean, that was part of the discussion and part
8 of the exchange?

9 A. Yes. But again, let's be precise
10 about it. If, for example, a supporter of the
11 Governor's or a Republican county chairman or
12 the Bush phone bank chairman wanted to see the
13 Governor or a prospective candidate wanted to
14 see the Governor, generally that was something
15 that fell into my area, yes.

16 Q. So is it safe to say, and this may
17 be a nebulous area, but if in your judgment it
18 was considered political then you would be in
19 charge of it, or at least you would play a
20 role in the decision-making process for whom
21 he sees and when?

22 A. Right. I would play a role.

23 Q. And whether he sees the person; is
24 that correct?

25 A. Yes.

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1 Q. When you say "political
2 correspondence", what are you talking about
3 specifically?

4 A. For -- these would be letters
5 where it would be a violation of state law for
6 the response to be typed on state equipment
7 and mailed at state expense. For example,
8 someone writes and says, I think you're doing
9 a terrific job as Governor and I hope you run
10 for reelection, then it would be up to us to
11 draft the appropriate letter on a nonstate
12 computer, print it on a nonstate printer using
13 a letterhead paid for with a political
14 disclaimer on it, and provide it to the
15 Governor for signature.

16 Q. Like a thank you for your support,
17 enclosed is an envelope for you to send a
18 check or something like that, something like
19 that?

20 A. Something like that.

21 Q. Okay. You said that the type of
22 business you were in was direct mail; is that
23 right?

24 A. Uh-huh.

25 Q. And that business has been ongoing

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1 since 1981, correct?

2 A. Yes.

3 Q. Have you -- has your business,
4 this direct mail business, and fund-raising
5 and direct mail had any clients outside of the
6 State of Texas since its inception, since
7 1981?

8 A. Oh, yes. Most of our business is
9 outside Texas.

10 Q. So you have handled political
11 campaigns, fund-raising for political
12 campaigns outside the State of Texas?

13 A. In 24 states and one foreign
14 country.

15 Q. What was the one foreign country?

16 A. Sweden.

17 Q. And how did you get that contract?

18 A. A former prime minister of Sweden
19 who was then the leader of the moderate party.

20 THE REPORTER: The what
21 party?

22 THE WITNESS: The moderate
23 party. Call it moderate.

24 Q. (By Mr. Mikhail) But the
25 connection was your friend from your college

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1 days?

2 A. Yes.

3 Q. Have you worked on any -- for any
4 direct mail fund-raising campaigns for any
5 presidential campaigns, for U.S. presidential
6 campaigns?

7 A. Yes.

8 Q. Who would that be?

9 A. Either through -- directly for the
10 campaign or for victory committees in support
11 of the presidential ticket in every election
12 since 1980.

13 Q. Can you name which candidates?

14 A. Actually since 1976. As finance
15 director of the Republican party of Virginia
16 with Gerald Ford. As director of the victory
17 committee in Texas in 1980 it was Ronald
18 Reagan. At Rove & Company it would have been
19 Ronald Reagan and George Bush in '84, '88 and
20 '92. And Bob Dole in '96.

21 Q. Do you know a gentleman by the
22 name of Mike Gunn?

23 A. Yes, I do.

24 Q. Competitor of yours or an
25 associate?

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1 A. Not an associate. Not really a
2 competitor.

3 Q. How well do you know him?

4 A. I know him quite well.

5 Q. How often do you see him?

6 A. I see him very infrequently
7 fortunately.

8 Q. What does "infrequently" mean?

9 A. I haven't seen him face to face in
10 probably 10 years.

11 Q. You have corresponded or talked to
12 him by phone in the 10 years, however?

13 A. No. I contribute to his
14 opponents.

15 Q. I'm sorry?

16 A. I contribute to his campaign
17 opponents.

18 Q. Contribute to his campaign
19 opponents?

20 A. Yes, I do.

21 Q. What do you mean "campaign
22 opponents"?

23 A. People who run in the same race
24 that Mike Gunn runs in I contribute to.

25 Q. He runs a direct mail similar to

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1 what --

2 A. Yes, I know. No, not similar to
3 what we do.

4 Q. It's not the same thing?

5 A. I don't consider it such, no.

6 Q. Just briefly what is the
7 difference between the direct mail
8 fund-raising that Mike Gunn does and what Karl
9 Rove does?

10 A. Mike Gunn does mostly
11 fund-raising, as I understand it, for sort of
12 on-the-margin groups that really don't do
13 much. He very rarely raises money for
14 candidates. The only high profile candidate
15 for whom he's attempted to raise money is
16 David Duke.

17 Q. From Louisiana?

18 A. Right.

19 Q. Have you ever done direct mailing
20 of fund-raising for David Duke?

21 A. I consider David Duke a bigot and,
22 no, I would not.

23 Q. Are you aware that Mike Gunn is
24 resigning from the Mississippi Senate the end
25 of September and joining the tobacco

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1 institute?

2 A. No. It's a sad commentary on the
3 tobacco institute and a vast improvement for
4 the Mississippi Senate.

5 Q. You are associated with Philip
6 Morris; isn't that correct?

7 A. Yes.

8 Q. And you are a member of the
9 tobacco institute?

10 A. No.

11 Q. Philip Morris is a member of the
12 tobacco institute?

13 A. Well, first let me say my
14 association with Philip Morris ended after the
15 1996 elections.

16 Q. You are no longer associated with
17 Philip Morris?

18 A. No.

19 Q. We'll get to that in just a
20 moment.

21 MR. MIKHAIL: Why don't we
22 takes a 5- or 10-minute break? Would that be
23 good?

24 THE VIDEOGRAPHER: Off the
25 record.

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1 (Off-the-record
2 discussion.)

3

4 (A recess was taken.)

5 THE VIDEOGRAPHER: On the
6 record.

7 Q. (By Mr. Mikhail) Mr. Rove, in the
8 State of Texas since 1981 other than Senator
9 Hutchinson and Governor Bush, what other
10 clients have you had in political campaigns?

11 A. I'm not going to be able to
12 remember them all, but Governor Clements in
13 '86. Railroad Commissioner Ken Hance in
14 '88. Rick Perry, agriculture commissioner in
15 '90 and '94. Treasurer Hutchinson's '90
16 race. State Senate campaigns at various times
17 of Teel Bivins, Troy Frazier, Robert Duncan,
18 Florence Shapiro, David Sibley, Bill Ratliff,
19 Jeff Wentworth, Steve Ogdan.

20 I'm leaving somebody out of the
21 Senate. State House -- a number of State
22 House races. Todd Staples. Troy Frazier when
23 he was in the House. Congressman Lamar
24 Smith. Congressman Joe Barton.

25 Q. Are these all Republicans?

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1 A. Yes. The only Democrat was Phil

2 Gramm in 1982.

3 Q. Who is now a Republican?

4 A. Yes. Members of the Supreme

5 Court, every Republican member of the Supreme

6 Court. Railroad Commissioner Barry

7 Williamson. Railroad Commissioner Carol

8 Rylander.

9 Q. What is your batting average?

10 A. Pretty high.

11 Q. Most of these races were

12 successful?

13 A. Yes.

14 Q. When did you -- you mentioned

15 earlier in your testimony you're no longer

16 associated with Philip Morris; is that

17 correct?

18 A. Yes.

19 Q. Tell me when you first became

20 associated with Philip Morris, under what

21 circumstances.

22 A. In the spring of 1991 a friend of

23 mine who worked for Philip Morris named Bernie

24 Robinson called me and asked me to come to a

25 meeting. And after the meeting offered me

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1 work with Philip Morris.

2 Q. And was this gentleman also

3 working for Philip Morris?

4 A. Yes.

5 Q. In what capacity?

6 A. Out of their New York office.

7 Q. What was he doing? What type of

8 work?

9 A. He was their sort of chief for the
10 southwest region.

11 Q. For what? What did he do?

12 A. All of their public affairs.

13 Q. Public affairs?

14 A. Right.

15 Q. And this was in the spring of
16 1991?

17 A. Yes.

18 Q. Okay. And how long did the
19 relationship last with Philip Morris? From
20 the spring of 1991 until when?

21 A. Last December.

22 Q. December of '96?

23 A. Right.

24 Q. From January 1995 until December
25 of 1996, you were concurrently the director of

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1 the Governor Bush Committee and associated
2 with Philip Morris?

3 A. Yes.

4 Q. Why did you end -- did you end
5 your association with Philip Morris or did
6 they end it?

7 A. I think it was by mutual
8 agreement. My work was in political
9 campaigns, and it was just getting to be
10 awkward to be juggling -- I had a higher level
11 inside into what was going on in elective
12 politics in Texas being where I was, and it
13 was awkward to, in my mind, as to what
14 information I felt comfortable sharing with
15 Philip Morris about who was up and who was
16 down and who was a prospective candidate and
17 what was going on in terms of campaign funding
18 and so forth. I felt awkward about it.

19 Q. You felt awkward sharing with a
20 private client such as Philip Morris
21 information that you obtained, or at least in
22 part, came across in your position as the
23 director of the Governor Bush Committee?

24 A. Yes.

25 Q. Is that a fair way of saying it?

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1 A. Information about electoral

2 politics, yes.

3 Q. From January 1995 until December

4 of 1994, when did you start becoming, during

5 that 12-month period, start becoming

6 uncomfortable with it?

7 A. The fall of '96.

8 Q. And was that at anyone's

9 suggestion or instance? Did someone bring

10 that up to you that it was awkward, or is that

11 something that you on your own started

12 feeling?

13 A. On my own.

14 Q. And do you know why you didn't

15 feel that way from January of 1996 until the

16 fall of 1996?

17 A. Because the request for political

18 information and political intelligence

19 escalated in the fall of the election year.

20 There are cycles to this. As you frame up the

21 election the year before and then after the

22 primaries and then in the fall.

23 Q. Okay. So in the spring of 1996

24 were you giving Philip Morris advice on the

25 political landscape in Texas?

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1 A. Yes.

2 Q. Some of which information you
3 obtained by virtue in your capacity as
4 director of the Governor Bush Committee?

5 A. I don't know if I -- I don't know
6 if I could easily say that. But by the fall
7 when there are -- a lot of polling data is not
8 available in the spring, and I was seeing a
9 lot of polls that I was only seeing because
10 people wanted the Governor to see them. I
11 felt very awkward and made a decision that I
12 couldn't share information that was given to
13 me in my capacity as an advisor to the
14 Governor, Here is our poll, we'd like the
15 Governor to come do a fund-raiser for us. We
16 have a shot to win. I felt uncomfortable and
17 did not share that information. And as a
18 result, I felt it was being unfair to Philip
19 Morris and putting me in an awkward place.

20 Q. But up until that time, until the
21 fall, had you shared with Philip Morris
22 information that you had obtained, any
23 information in your capacity as director?

24 A. Yes, but not polling data.

25 Q. What type of information did you

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1 share with them?

2 A. Political gossip about who was
3 getting ready to run and how they were doing
4 with fund-raising and how they were doing
5 garnering support of key groups, how they were
6 doing with lining up endorsements and so
7 forth.

8 Q. And was that information
9 accessible or available to you by virtue of
10 the fact that you were director of the
11 Governor Bush Committee?

12 A. Some of it may have been.

13 Q. Was some of it part of the private
14 work that you did through Karl Rove & Company?

15 A. Oh, sure, most of it.

16 Q. So in the fall of '96 you decided
17 that it was awkward and you wanted to stop
18 doing that?

19 A. Yeah.

20 Q. Is that right?

21 A. Yes.

22 Q. And why did you wait until
23 December of 1996 to stop?

24 A. To let the contract come to its
25 natural conclusion.

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1 Q. Did you withhold any information
2 that you were uncomfortable about from Philip
3 Morris between the fall of 1996 and December
4 of 1996 when the contract expired?

5 A. Yes.

6 Q. Did Philip Morris know that you
7 withheld that information?

8 A. No.

9 Q. What type of contract did you have
10 with Philip Morris? Was it a written
11 agreement?

12 A. Yes.

13 Q. Was it a letter?

14 A. No. They have a standard
15 boilerplate consultant agreement that they
16 have.

17 Q. Is that one of the documents that
18 you have with you today?

19 A. Yes.

20 Q. How much were you paid by Philip
21 Morris? What did the contract call for?

22 A. In 1991 and '92 we were paid two
23 thousand and some-odd dollars a month. And at
24 the end we were paid three thousand some-odd
25 dollars a month.

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1 Q. Give me that again.

2 A. In 1991 and '92 we were paid two
3 thousand and some-odd dollars. Started off at
4 two thousand dollars a month. And sometime in
5 the early '90s went to two thousand and
6 some-odd dollars a month. And by '96, I
7 believe, it was three thousand or just over
8 three thousand dollars.

9 Q. Okay. Is it your testimony,
10 Mr. Rove, that no one from January 1996 until
11 December of 1996 when the contract with Philip
12 Morris expired -- was that a one-year contract
13 by the way?

14 A. Yes.

15 Q. When that contract expired, is it
16 your testimony that no one suggested to you or
17 advised you or gave you his or her opinion
18 that this isn't a good idea?

19 A. Put it that broadly, yes. My wife
20 said, Why are you doing work for the tobacco
21 company? My wife very much antismoking. And
22 colleagues said, Do you really want to be
23 doing this kind of work?

24 Q. When you say "colleagues" --

25 A. Other political consultants.

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1 Q. Other political consultants?

2 A. Right.

3 Q. Did any public officials say
4 anything to you?

5 A. No.

6 Q. Did Governor Bush say anything to
7 you about it?

8 A. No.

9 Q. Did Governor Bush know that you
10 were working for Philip Morris as a consultant
11 at the same time that you were director of the
12 Governor Bush Committee?

13 A. Yes.

14 Q. How did he learn that information?

15 A. I told him in 1993.

16 Q. All right. And when he became
17 Governor and assumed office in January of
18 1996 --

19 A. '95.

20 Q. -- '95, during that entire year of
21 1995 did you and Governor Bush have any
22 discussions about your work for Philip Morris?

23 A. No, other than the Governor said,
24 As long as you're doing work for them I don't
25 want to hear about it.

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1 Q. Did you come to him and tell him
2 when you assumed the position as director or
3 you assumed that he was still aware of it
4 since he knew back in 1993 that you were
5 affiliated?

6 A. I've told him each year who my
7 other clients are.

8 Q. Okay. And you told him when he
9 assumed office that you are still working with
10 Philip Morris, and your testimony is that
11 Governor Bush told you that if you still are
12 that he doesn't want to hear about it?

13 A. Right.

14 Q. Okay. And in your mind, what did
15 that mean, Mr. Rove, what is it you were not
16 to share?

17 A. Not to talk to him about tobacco
18 issues.

19 Q. And in your opinion, how would you
20 define "tobacco issues"?

21 A. Anything involving tobacco company
22 issues.

23 Q. Like what?

24 A. Smoking policies, state laws
25 regarding the regulation on smoking.

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1 Q. What type of laws?

2 A. There are laws in the past
3 sessions regarding city and municipal
4 standards and standards for no-smoking
5 ordinances.

6 Q. That include laws dealing with
7 youth access to tobacco?

8 A. Yes.

9 Q. Did it deal with taxation, excise
10 taxes on cigarettes?

11 A. Yes.

12 Q. Did that deal with any kind of
13 preemption provisions of any legislation that
14 involved tobacco?

15 A. Yes.

16 Q. Did that involve product liability
17 laws?

18 A. I don't know, but none of that
19 came up that I'm aware of.

20 Q. Well, was one of the things that
21 you refrained from discussing with Governor
22 Bush in your capacity as a consultant to him,
23 political consultant for him, at the same time
24 you were working for Philip Morris was one of
25 the subjects you stayed away from product

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1 liability?

2 A. I believe so. I believe we passed
3 a product liability law before he entered
4 office.

5 Q. Did you ever discuss with Governor
6 Bush during the year 1995 and during the year
7 1996, tort reform legislation?

8 A. I'm sure I did, but I don't recall
9 specifically. That was not in my area.

10 Q. But you do recall generally that
11 that was an area that you did discuss with
12 him?

13 A. The Governor had a very specific
14 tort reform package that he laid out in the
15 1994 campaign that he largely enacted in 1995.

16 Q. And you were involved and
17 participated in discussions with him regarding
18 tort reform?

19 A. I can't say that I did, but I
20 can't say that I didn't. I do not recall. I
21 know that the tort reform was a significant
22 part of his legislative agenda, but, as I say,
23 it was not my area.

24 Q. Mr. Rove, as you sit here today,
25 is it your testimony that you cannot tell me

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1 one way or the other if you ever discussed
2 with Governor Bush tort reform or product
3 liability law reform during the years 1995 and
4 1996?

5 A. As I said, I believe I did, but I
6 can't tell you exactly when and where and I
7 can't tell you that I didn't. I'm confident
8 that sometime during that year the issue of
9 tort reform came up. But I can't remember
10 specifically.

11 Q. And did you in your mind separate
12 or see a distinction between your refraining
13 from discussing tobacco issues with him and
14 product liability and tort reform?

15 A. I suspect I did, yes.

16 Q. And you did not consider
17 discussing with the Governor in your capacity
18 as a consultant for Philip Morris and as the
19 Governor's consultant that the issue of tort
20 reform and product liability included tobacco?

21 A. No. Again, he had a very specific
22 agenda, which he laid out in the '94 campaign
23 which formed the basis of his 1995 legislative
24 package.

25 Q. But tobacco was part of the debate

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1 on products liability and tort reform, was it
2 not?

3 A. In some instances maybe. And in
4 some instances clearly not. Medical
5 liability, no. Importation and out-of-state
6 lawsuits, no.

7 Q. Wasn't tobacco a product that was
8 part of the subject of product liability and
9 tort reform?

10 A. I have to admit, product liability
11 I can't remember whether it was -- the law was
12 passed in '95 or whether it was passed
13 earlier.

14 Q. I understand. But what I'm asking
15 is, it's true, isn't it, that tobacco is part
16 of the subject matter of tort reform and
17 product liability, correct?

18 A. Broadly, yes.

19 Q. Claims against tobacco
20 manufacturers resulting from the use of the
21 product, correct?

22 A. You're getting into an area that
23 I'm not capable of addressing. I mean, I
24 don't know. I'm not familiar with the ins and
25 outs of it.

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1 Q. You don't know whether or not
2 claims against manufacturers and laws dealing
3 with product liability and civil lawsuits, et
4 cetera, encompasses or includes in its subject
5 matter the product of tobacco?

6 A. No, sir. I don't understand
7 whether or not it had application to specific
8 laws at discussion in 1995.

9 Q. But you didn't see it as being a
10 tobacco-related issue, did you?

11 A. No.

12 Q. Do you know whether or not Philip
13 Morris and other tobacco companies or tobacco
14 affiliated companies or allies of the tobacco
15 industry were funding or made contributions,
16 financial contributions, in the efforts to
17 accomplish tort reform? And I say that in
18 quotes, tort reform or product liability
19 reform.

20 A. I'm confident they did, yes.

21 Q. Okay. In the contract with Philip
22 Morris, did you have a provision where you
23 would be paid an extra stipend or a bonus for
24 any particular project or particular activity
25 over and beyond what the contract services

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1 basically called for?

2 A. No, not that I recall. I don't
3 recall whether we had a contract for 1991, and
4 during that year it is my recollection that we
5 were asked to take on two projects in the fall
6 of '91 for which we may have been paid in
7 addition to the monthly retainer. But other
8 than that, I don't recall the instance. I'm
9 not even certain if we were paid a retainer in
10 '91. I haven't looked at the documents to
11 refresh my memory. But I know we did two
12 projects for which we were paid.

13 Q. Okay. You are, is it fair to say,
14 a consultant to Governor Bush?

15 A. Yes.

16 Q. Is there a better way to describe
17 that? Can you be more precise than that? Are
18 you a political consultant, economic
19 consultant?

20 A. Political consultant.

21 Q. You mentioned being in a position
22 called the general consultant to a campaign --

23 A. Right.

24 Q. -- once. Is the position that you
25 hold with Governor Bush more a general

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1 consultant, or is it strictly limited to a

2 political consultant?

3 A. Well, the term "general

4 consultant" is used as a term of art within

5 the political world meaning the lead

6 consultant who generally is the person who

7 serves as a liaison with the media consultant,

8 the pollster and any other consultants the

9 campaign has.

10 Q. Are there parameters to your

11 consultancy with Governor Bush currently and

12 during 1995 and 1996? Is it limited or

13 restricted to being a political consultant, or

14 did you act in the capacity also as a general

15 consultant at times?

16 A. A general consultant is a general

17 political consultant.

18 Q. They're interrelated?

19 A. Yeah. In a political campaign

20 you'd say this is the general consultant

21 because it means that that is the lead. There

22 may be a lead counsel in this case, somebody

23 who is in charge of the rest of the lawyers.

24 And/or in charge with responsibilities of

25 coordinating the activities of the other

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1 lawyers. That's what a general consultant
2 generally does.

3 Q. So other than what you have
4 testified about that you tried to stay away
5 from tobacco issues in your discussions and
6 advice to the Governor, was there any other
7 topic that was off limits?

8 A. Any other political topic or --

9 Q. Any other type or subject matter
10 on which you would give the Governor advice or
11 feel uncomfortable discussing with him and
12 exchanging views and expressing your opinion
13 on?

14 A. Well, yeah.

15 Q. Well, I don't mean personal
16 things. You know what I'm talking about. I'm
17 talking about anything that he would be making
18 decisions on as a public official.

19 A. Sure. If things were outside my
20 realm. Specific education policy or policy
21 with regard to Texas natural resources and
22 conservation commission. I mean, there are
23 whole --

24 Q. Areas of expertise that you didn't
25 have?

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1 A. Right.

2 Q. Were you involved, however, in
3 advising him in those areas as it would affect
4 him politically?

5 A. If there was an explicit request
6 for my opinion or my thoughts on the political
7 fallout of a particular issue or area, which
8 frankly is rare. I mean, most of these --
9 most of the time political fallout of an issue
10 doesn't come to the fore.

11 Q. Okay. But you did discuss with
12 him and had exchange of views and conferred
13 together on the political aspects of all sorts
14 of issues that the Governor was involved in,
15 whether it be education or health or
16 conservation or environment or business or
17 anything like that; isn't that right?

18 A. Did I talk with him about the
19 political implications of things? Yes. Are
20 they necessarily the things on the list that
21 you've cited? No.

22 Q. But they're actually beyond even
23 the list, they're much more than that?

24 A. They may be much less. They don't
25 include some of the items on your list. I

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1 don't remember talking to him about a health
2 issue, for example.

3 Q. It may be my fault, Mr. Rove. I
4 apologize to you. But let me ask it the way I
5 asked it earlier.

6 Other than tobacco issues that you
7 specifically put in a category because you
8 were a Philip Morris consultant in '95 and '96
9 at the same time you worked as a consultant to
10 the Governor, was there any topic that was off
11 limits?

12 A. Issues on which I didn't have any
13 expertise, and which had no political
14 implications.

15 Q. All right. As a consultant to the
16 Governor, do you have an office in the
17 Capital?

18 A. No.

19 Q. Do you have an office in any state
20 office building?

21 A. No.

22 Q. Have you ever had an office in the
23 state capital or any state office building in
24 your capacity as consultant to the Governor?

25 A. No.

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1 Q. What about in the Governor's
2 mansion?

3 A. No.

4 Q. What about -- do you have a desk
5 at either the mansion or the state capital or
6 any other state building?

7 A. No.

8 Q. Have you ever had a desk as a
9 consultant to the Governor in the capital,
10 state office building or the mansion?

11 A. No.

12 Q. Have you ever had a telephone line
13 in any of those places?

14 A. No. There is a political phone.
15 You may not be familiar with Texas law.

16 Q. Educate me.

17 A. There is a law that in essence
18 says that any statewide elected official to
19 have political phones. So there is a phone
20 outside the Governor's office on a desk that
21 if I'm in the capital and need to be picked
22 up, I will go and use that phone if I don't
23 have my mobile phone with me. But it's not my
24 phone. It's just a phone that I will
25 occasionally use. It sits on the desk of the

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1 secretary whose phone it is.

2 Q. And your understanding is that
3 under Texas law -- and you're right, I'm not
4 as familiar with it as you in this area --
5 that you are permitted to use that political
6 phone?

7 A. Because that's paid for by the
8 political committee.

9 Q. By the political committee. Did
10 you ever use that telephone for anything in
11 connection with your work for Philip Morris?

12 A. Not that I recall.

13 Q. Is it your testimony that you
14 never made a telephone call from that
15 political phone on any issue on behalf of or
16 relating to the work you were doing for Philip
17 Morris?

18 A. Not that I recall.

19 Q. Can you say for sure?

20 A. I can't say for sure, because I
21 can't remember three years' worth of telephone
22 calls. I would find it -- I would find it
23 unusual. I can't recall.

24 Q. Are you prepared to say today that
25 you have never picked up that political phone

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1 that you referred to and talked to someone
2 either at Philip Morris or connected with
3 Philip Morris or related to Philip Morris on
4 issues that were of concern to Philip Morris?

5 A. I don't recall that I did, no.

6 Q. When you advised the Governor in
7 1995 and 1996 the same time that you were an
8 advisor or consultant to Philip Morris, where
9 did you advise the Governor? In other words,
10 did you advise him in the mansion at times,
11 give him advice in the mansion? Did you meet
12 with him in the mansion?

13 A. Sure. Yes.

14 Q. Did you meet with him at the
15 capital?

16 A. Yes.

17 Q. Did you drive around in a car and
18 talk with him?

19 A. Could have.

20 Q. What about his home or your home?

21 A. His home is the mansion. And,
22 yes, he's been in my home, and I'm confident
23 we've talked politics at my home.

24 Q. Okay. When you advised the
25 Governor in 1995 and 1996 in your capacity as

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1 a consultant to the Governor, were you paid

2 any money that was state funds?

3 A. No.

4 Q. It was all from the Governor Bush

5 Committee?

6 A. Yes.

7 Q. And what amount was that,

8 Mr. Rove?

9 A. My firm was initially, I think,

10 paid \$5,000 a month. And we're now paid

11 \$7,000 a month since we took over -- since

12 early '95 we've been paid \$7,000 a month

13 because we do the Committee's books.

14 Q. Okay. In your capacity and your

15 services that you performed to the Governor in

16 1995 and 1996, I'm talking about the period in

17 which you were a consultant for Philip

18 Morris.

19 A. Uh-huh.

20 Q. When you advised the Governor, was

21 that strictly political advice -- and let me

22 clarify myself. We've been through this about

23 being a political consultant or general

24 consultant. What I'm asking for -- excuse me

25 for a moment.

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1 MR. MIKHAIL: This dropped
2 out of -- the microphone dropped out of the
3 holster. Am I okay?

4 Q. (By Mr. Mikhail) Were you looking
5 out, Mr. Rove, for the Governor's political
6 interests in doing so?

7 A. Yes.

8 Q. Were you looking out for the
9 public interests in the State of Texas in
10 doing so?

11 A. I believe they're largely one and
12 the same.

13 Q. Were you performing the services
14 to the Governor for any private interests?

15 A. No.

16 Q. That being yours, your company's
17 or Philip Morris?

18 A. No.

19 Q. So you believe that in performing
20 your duties and obligations as the consultant
21 to the Governor that you were performing a
22 function in his political interests/public
23 interests which you see one and the same?

24 A. Largely, yes.

25 Q. When you say "largely," what are

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1 the limitations to that? What are the
2 differences?

3 A. I don't know, but I'm confident
4 there are some points in which his political
5 interests might conflict with somebody's
6 definition of what the public interest is. I
7 couldn't name you one.

8 Q. But you saw yourself in giving him
9 advice and the opinions that you would give
10 him and the discussions that you would have
11 when you would express your opinion. Is it
12 fair to say that you were concerned, and the
13 advice you gave him was in the betterment of
14 his political interests?

15 A. Yes.

16 Q. In your mind was that also always
17 in the public interest? In your mind now.
18 I'm not talking about what other --

19 A. I don't know if I could say
20 always. I'm not saying always. I couldn't
21 name you an instance where it wasn't but --

22 Q. You can't name an instance where
23 you thought it was politically correct for
24 him, but that it may not have been in the
25 public interest of the State of Texas?

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1 A. Right.

2 Q. You can't think of an instance?

3 A. I can't remember or recall it at

4 this moment.

5 Q. Can you name an instance when you

6 gave the Governor advice which was in the

7 interest of Philip Morris?

8 A. No.

9 Q. Do you believe that the interests,

10 the private interest of Philip Morris, were

11 always consistent with the Governor's

12 political interests?

13 A. No.

14 Q. Do you believe that the private

15 interests for Philip Morris at the time you

16 worked for them -- and I want to restrict it

17 to the time -- that their interest, their

18 private interest coincided with the public

19 interest in the State of Texas?

20 A. No.

21 Q. Could you tell me the instances in

22 which the interests, the private interests of

23 Philip Morris were not in the Governor's

24 political interests?

25 A. They backed a bill that would have

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1 in essence had the State set a uniform policy
2 regarding smoking in restaurants and bars.
3 And the Governor is a local control person. I
4 believe those kinds of decisions ought to be
5 left up to local communities to decide for
6 themselves.

7 Q. He voted or vetoed a bill that had
8 a preemption provision in it on youth
9 restriction on where you could smoke; isn't
10 that correct?

11 A. You're going to have to clarify
12 what you mean by "preemption."

13 Q. "Preemption" meaning state law
14 would override and place restrictions on what
15 local and municipal communities could pass?

16 A. Yes.

17 Q. He vetoed a piece of legislation
18 that had a preemption provision in it,
19 correct?

20 A. Correct.

21 Q. Were you involved in any way or
22 took part in advising him in any way in the
23 process that led to his vetoing that piece of
24 legislation that included the preemption
25 provision?

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1 A. No.

2 Q. You did not have any discussions
3 with him regarding vetoing that?

4 A. No.

5 Q. Can you name me other interests
6 when the private interests of Philip Morris
7 would -- did not coincide with the political
8 interests of Governor Bush?

9 A. I can't. I'm sure there were but
10 I can't.

11 Q. You can't today?

12 A. Right.

13 Q. What about any time when the
14 private interests of Philip Morris -- were in
15 the two years in which you served concurrently
16 in those two capacities -- were not one and
17 the same as the public interest of the State
18 of Texas at the same time you were a
19 consultant for Philip Morris?

20 A. Yeah. This is a definition -- for
21 example, is the public interest to have a
22 uniform state policy, or is the public
23 interest to have local communities decide?
24 You can make the argument that Philip Morris'
25 interest in those instances were in the public

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1 interest and not in the public interest.

2 Q. How were they not in the public
3 interest?

4 A. Local -- you could make the
5 argument that local communities ought to be
6 able to decide for themselves. If they want
7 strict rules, stricter than they would get
8 under a uniformed state law, that that's in
9 the public interest to be able to make those
10 determinations.

11 Q. Did you ever advise -- in those
12 two years, did you ever advise Philip Morris
13 on the issue of preemption or the issue of
14 uniform laws versus local and municipal?

15 A. Yes. I was asked about it once or
16 twice in an offhand way. And reiterated that
17 you think there is any chance that this bill
18 will fly with the Governor. I said he's a
19 local control man. It's pretty clear he's a
20 local control guy. I can remember one or two
21 instances where I had those kinds of
22 conversations.

23 Q. Did you discuss that with the
24 Governor at all?

25 A. No.

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1 Q. Were there any criteria in your
2 mind, Mr. Rove, or just a checklist of some
3 sort, guidelines, criteria, just a series of
4 bullets, something in your mind that you used
5 to be able to separate or put a Chinese wall,
6 if you will, between serving concurrently as a
7 consultant to Philip Morris and as a
8 consultant to the Governor of the State of
9 Texas?

10 A. Yeah. The main question was is
11 there a -- does the role that I'm being asked
12 to fill for Philip Morris somehow conflict
13 with the role that I am being asked to fulfill
14 for my other client?

15 Q. That's a general question. That's
16 the general proposition. Were there any
17 specific criteria that you had in mind?

18 A. Yeah. What is my specific
19 function? Is the function that I'm being
20 asked to fulfill for Philip Morris, acting as
21 a prognosticator, if you will, on political
22 contests, and giving advice on whether
23 political dollars might be wisely spent and
24 where they would be foolishly spent, does that
25 conflict with my role as an advisor to the

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1 Governor.

2 Q. And did you at any point during
3 the time that you were serving in both
4 capacities, reach a conclusion or formulate an
5 opinion that in fact it did conflict, that
6 there was a conflict?

7 A. No. My concern was Philip Morris
8 was asking me to give my best effort at giving
9 them advice. And yet I was receiving
10 information and privy to information that I
11 felt uncomfortable sharing with them. And at
12 that instance, I'm not serving my client if I
13 can't give my client my best effort. And if I
14 have to be concerned about is my advice to
15 them regarding this race somehow affected by
16 information that I feel uncomfortable sharing
17 with them because it was given to me in -- an
18 admittedly small number of instances -- but
19 given to me in the context of privilege, if
20 you will, then, yeah, it's causing a
21 conflict. I'm not earning my pay if I'm only
22 giving them two-thirds or one-half and
23 precluded from giving them my full and best
24 effort by restrictions that I need to respect
25 because it's a client that is more important

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1 to me and with whom I have a deeper personal
2 relationship.

3 Q. And maybe we've been over this
4 again and forgive me.

5 A. Sure.

6 Q. But I'm having a hard time
7 understanding or seeing why from January of
8 1995 until the fall of 1996 you didn't come to
9 that realization.

10 A. Well, the specific is there is --
11 again I'll go back briefly. There are periods
12 in a campaign during which there is a lot of
13 polling information. And generally that's in
14 the fall. If you're talking about races for
15 the State Senate or the State House, they're
16 not polling in the January and February and
17 March and April and May and June and July.
18 They start polling in August, September and
19 October.

20 And the same with congressional
21 races. A poll a year before an election is
22 virtually meaningless compared to a poll that
23 is taking place 45 days, 60 days before the
24 election. And so, you know, there is very few
25 opportunities for the receipt of information

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1 as Governor Bush's advisor in the way of
2 polling data that I could then turn around and
3 say, hey, you need to know that your money
4 going into congressional X is wasted because
5 their own poll says they're way behind and
6 there is no way to catch up.
7 They don't understand it. They're
8 looking at the poll a different way. But my
9 professional reading of the poll is these guys
10 are dead in the water. And so there was
11 little or no opportunities that I remember
12 until late summer of '96 in which I began to
13 get an ever increasing, here, I've got data
14 here which I'm being given as the Governor's
15 advisor to help him frame a decision as to
16 whether or not he's going to campaign for X or
17 Y or Z or endorse them or make a campaign
18 appearance or appear at a fund-raiser, and yet
19 I'm being asked by another client to give them
20 my best possible information and yet I'm going
21 to make a decision based on data that I've
22 been given by a candidate who said please
23 don't share this with anybody else.
24 Q. Did you ever in those two years
25 share with the Governor information that you

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1 obtained from Philip Morris?

2 A. Not that I recall, no.

3 Q. You're not prepared to say that
4 you never have?

5 A. I do not recall ever sharing any
6 information.

7 Q. Might you have?

8 A. I don't believe I did, no.

9 Q. Did you have a confidentiality
10 provision in your agreement with Philip
11 Morris, or was there a separate
12 confidentiality understanding that you would
13 not reveal to anyone or share with anyone
14 information gained as a consultant for Philip
15 Morris?

16 A. I don't recall such a provision,
17 but I would treat it as such.

18 Q. We're going to look at the
19 documents during break and see. But is that
20 your understanding?

21 A. Yeah. I don't remember a
22 confidentiality agreement. I suspect even if
23 there wasn't, I would treat the material that
24 I received from a client as confidential.

25 Q. All right. Did you have a

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1 confidentiality agreement with Governor Bush
2 and the Governor Bush Committee?

3 A. Not written. But, I mean, very
4 explicit directions from the Governor that he
5 doesn't like unnecessary conversation outside
6 the tent.

7 Q. Did you in those two years ever
8 share with Philip Morris before the time that
9 you started having this conflict in the fall
10 of 1996, did you ever share with Philip Morris
11 information gained as a result of
12 deliberations or discussions or conversations
13 about the political landscape with the
14 Governor?

15 A. No.

16 Q. Did you ever share with Philip
17 Morris what the Governor was thinking as a
18 result of, let's say, a private meeting
19 between you and the Governor?

20 A. No.

21 Q. Did you ever share with Philip
22 Morris any initiatives or any plans,
23 legislative plans, or policies or anything
24 that the Governor had shared with you that he
25 was contemplating, interested in pursuing, how

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1 he's going to pursue them, any of those types
2 of discussions with the Governor, did you ever
3 share that with Philip Morris?

4 A. No.

5 Q. You said that you -- that Governor
6 Bush told you that he didn't want to hear
7 about tobacco issues; is that correct?

8 A. Correct.

9 Q. Who, if not you, since you were
10 his chief political consultant, since you
11 could not and your testimony is that you
12 didn't, who did give him advice? Who was his
13 consultant, if you will, on tobacco issues?

14 A. Well, I don't think there was
15 one. The legal counsel shop under Al Gonzales
16 was involved in making recommendations about
17 vetoes. As was the policy shop headed by
18 Vance McMahan, as was his chief of staff Joe
19 Allbaugh, executive assistant.

20 Q. Did you ever have any discussion
21 with any of them or their staff or offices
22 regarding issues of concern to Philip
23 Morris --

24 A. No.

25 Q. -- in those two years?

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1 A. Correct. There was also the
2 legislative shop under Dan Shelly and then
3 Terral Smith who would be involved in this.

4 Q. Did you ever have discussions or
5 exchange with those individuals on what Philip
6 Morris --

7 A. No.

8 Q. -- would have liked?

9 A. No, it was not my job.

10 Q. Did you ever discuss with Governor
11 Bush possible donations or contributions from
12 tobacco interests to his campaign?

13 A. Yes.

14 Q. And was that during the time --
15 did that also include during the time that you
16 were a political consultant to the Governor?

17 A. Yes.

18 Q. In the years 1995 and 1996?

19 A. Well, actually, I can't say that
20 it was in '95. It may have been in -- no,
21 fall '95, yes.

22 Q. And what was the nature of those
23 discussions?

24 A. As I recall, Philip Morris
25 contributed to the Republican Governor's

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1 Association of which he's a part. And then I
2 believe that Philip Morris either contributed
3 or contemplated making a contribution to his
4 fund-raising events in the fall of 1995.

5 Q. Did you discuss with the Governor
6 the contribution before it was made?

7 A. I can't recall, but it was in the
8 context of going over an entire list of
9 contributions. I don't recall that it was in
10 the context of specifically PM making a
11 contribution. Ironically enough, I do recall
12 having a conversation, a specific conversation
13 with the Governor about a contribution that
14 was tendered by Mr. Umphrey to the Governor's
15 1995 dinner which I returned. But -- don't be
16 surprised. But I don't recall having any
17 specific conversation about that. But I'm
18 confident in the context of going over the
19 people who contributed to the Houston or
20 Dallas dinner, that he would have become aware
21 of it from me either in a written list that my
22 staff would have prepared, or in going over it
23 I'm confident he would have seen it.

24 Q. Mr. Rove, did you feel any
25 discomfort or awkwardness at all in discussing

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1 with the Governor a contribution to him by one
2 of your clients when you are discussing with
3 him the issue as his consultant?

4 A. No.

5 Q. Why not?

6 A. It was a public contribution to
7 his campaign we discussed in 1993. As in most
8 instances, when you sit down with a candidate
9 you need to ask him will you accept alcohol
10 money, tobacco money, trial lawyer money,
11 gambling money. And the Governor made a
12 decision in '93 that he would not accept
13 gambling money. That he didn't anticipate
14 getting any trial lawyer money, and that he
15 didn't want to receive large sums of alcohol
16 or tobacco money, but that in modest amounts
17 and reasonable sums he was willing to take it.

18 Q. When you expressed your -- or had
19 discussions with the Governor, to the best of
20 your recollection about tort reform or product
21 liability, which you said was the central or a
22 main feature of his program, did you express
23 your opinion on the program?

24 A. In 1993 and 1994?

25 Q. No, in 1995 and 1996, at any time

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1 in those two years you would not -- you would
2 not earlier, if I'm characterizing your
3 testimony correctly, you would not
4 emphatically deny that you didn't discuss that
5 subject matter with him?

6 A. Right.

7 Q. So I'm asking you if in those
8 discussions you expressed your opinion of
9 various aspects of tort reform or product
10 liability.

11 A. Only in a most cursory fashion
12 like, great, we've got a vote on --
13 congratulations we've got bill X. Or
14 congratulations, you know. Or how are we
15 looking on alfaro reform or could it be
16 just --

17 Q. But when you discussed it, I mean,
18 you expressed your opinion on the merits of
19 the legislation, didn't you, or the program?

20 A. I was supportive of the Governor's
21 legislative program, yes.

22 Q. I understand. But, I mean, you're
23 his consultant, you're his confidant. You
24 expressed your opinion to him about what you
25 personally feel about the provisions and the

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1 program, didn't you?

2 A. In what sense?

3 Q. I mean, you're with the Governor,

4 he wants to know what Karl Rove thinks about

5 certain provisions or programs or what it

6 hopes to accomplish. Surely you discussed

7 those things?

8 A. No. I mean, he had a legislative

9 program. He knew what he was going to

10 achieve. He had very smart lawyers who helped

11 draft that program. He had a lead guy on the

12 program, Vance McMahan, who handled it all.

13 So I'm confident that I had

14 conversations with him about tort reform.

15 Were they substantive? No. Were they me

16 offering an opinion on a particular piece of

17 legislation? No. Was it gossip about got a

18 vote on it or looks good in the House or

19 Senate? Yes. I can't recall the specifics.

20 Q. Did you discuss whether or not the

21 trial lawyers would support one way or another

22 or whether the health groups would support one

23 way or the other?

24 A. Generally it was not the trial

25 lawyers supporting anything. It was the trial

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1 lawyers opposing everything.

2 Q. Well, I'm talking about whether
3 they opposed or favored. Did you discuss the
4 role of the trial lawyers in the legislation
5 and tort reform or product liability?

6 A. Again, in terms of the opposition
7 of the trial lawyers to his tort reform
8 package, I'm confident we had conversations.
9 I can't remember the substance. And I'm
10 confident they weren't substantive.

11 Q. Did you have an opinion that you
12 shared with him on the merits or substance of
13 the program, of his legislative program?

14 A. In 1993 and 1994 during the
15 campaign, the program was drafted during the
16 campaign. To the degree that I had any
17 involvement in it, it was in '93 and '94. It
18 was not in '95 and '96. Passed from my hands
19 long before the start of the '95 legislative
20 session.

21 Q. All right. You had been a
22 consultant at the time for Philip Morris also,
23 from '91 to '96, correct?

24 A. Right.

25 Q. In your opinion, Mr. Rove, or from

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1 experience in working as a consultant to the
2 Governor with his legislative program and also
3 as a consultant for Philip Morris, did the
4 position of Philip Morris and the Governor
5 coincide or go hand-in-hand as to products
6 liability and tort reform?

7 A. I can't say because I'm not
8 familiar with -- I know this is a very
9 detailed and arcane part of the law. And I
10 don't know what Philip Morris' position was
11 other than they were supportive of product
12 liability reform. And I don't know whether
13 they were -- you know, and what their specific
14 opinion was on any part of the Governor's
15 legislative program.

16 Q. And in your association with the
17 Governor so were you, weren't you?

18 A. Pardon me?

19 Q. Supportive of tort and product
20 liability reform?

21 A. Yes, right.

22 Q. Just as Philip Morris?

23 A. Right.

24 Q. You were a consultant for Philip
25 Morris and an advisor to the Governor,

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1 correct?

2 A. Correct. Again, let me
3 reiterate. I don't know the specific opinions
4 of Philip Morris with regard to specific
5 elements of tort reform. I can say that I
6 know that they're generally supportive of tort
7 reform, but with regard to the specifics of
8 the legislation, I couldn't tell you what
9 their position was or what their priorities
10 were.

11 Q. Mr. Rove, what if it turns out if
12 it were true, and I'm asking you to assume,
13 that the tobacco industry including Philip
14 Morris as the largest manufacturer was
15 spearheading some publicly known, some not so
16 well known, the products liability and tort
17 reform movement and funding and backing and
18 promotion?

19 Did you see any conflict with you
20 being a Philip Morris consultant at the same
21 time being the consultant to the highest
22 public official in the State of Texas?

23 A. No. And I'm sure George Shipley
24 saw no similar problem with his relationship
25 with the Attorney General.

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1 Q. Why, Mr. Rove, did you even
2 mention Mr. Shipley?

3 A. Because others have faced the same
4 problem.

5 Q. But what I'm saying, though, is,
6 is your answer that you didn't see a conflict
7 because somebody else does the same thing, or
8 did the same thing, or is your answer there is
9 no conflict?

10 A. I don't see a conflict as long as
11 you're aware of the -- look, my responsibility
12 had nothing to do after 1990, and for a period
13 of time in 1991, my job was to look at, to
14 participate in meetings and look at some of
15 the things that they were -- being done to
16 build public support for tort reform.

17 After that point, my
18 responsibilities with Philip Morris was not
19 connected to tort reform. It was connected to
20 advising a company which makes everything from
21 candy to tobacco to breath mints to pasta on
22 the most effective use of their political
23 contributions by giving them my best advice on
24 what the political landscape was in Texas and
25 what was happening in political contests for

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1 the legislature and statewide offices. It was
2 not connected with lobbying for tort reform.
3 I'm thankfully oblivious as to the specific
4 position of Philip Morris with regard to the
5 specifics of tort reform.

6 Q. Mr. Rove, it's not your testimony,
7 is it, that you go by the George Shipley
8 standard or measure that if George Shipley
9 does it then it's all right?

10 A. No.

11 Q. You're not?

12 A. No.

13 Q. And your reference to George
14 Shipley was for what purpose?

15 A. That others have dealt with this
16 same problem and come to some conclusion about
17 it.

18 Q. And you know for a fact that
19 Mr. Shipley had confronted a similar problem
20 and confronted it and came out okay? Are you
21 referring to a specific alleged conflict or
22 anything that you're referring to in
23 connection with the attorney general?

24 A. He was a consultant to the
25 Attorney General at the same time that he was

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1 a consultant to Philip Morris. I'm confident
2 that he found a way to reconcile it.

3 Q. But that's not the reason that you
4 believe you have no conflict?

5 A. No, but I mean --

6 Q. What role, if any, do you have,
7 Mr. Rove, in appointments made by the Governor
8 to public offices?

9 A. Yeah. The political committee
10 does consult with our political leadership
11 around the state about political appointments,
12 about appointees and their political
13 involvement.

14 Q. What exactly happens? What does
15 that mean?

16 A. That means we check with the Bush
17 and Republican county chairman about people
18 from their community about whether they are
19 philosophically in line with the Governor and
20 what's the nature of their political
21 involvement.

22 Q. Do you look at merits?

23 A. Pardon me?

24 Q. At the merits or qualifications of
25 the individual?

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1 A. That's the job principally of the
2 appointment office. We may receive
3 information from the Bush and Republican
4 county chairman about the relative merits, but
5 that is really the responsibility of the
6 appointments office to make a decision about
7 the merits of the individuals. Our job is
8 simply to say is there a significant political
9 problem that would be created by appointing
10 this individual, or a significant political
11 problem that would be created by not
12 appointing this individual. And to give all
13 the political network of people a chance to
14 make recommendations as to who ought to serve
15 on boards and commissions.

16 Q. Have you discussed in the years
17 1995 and 1996 the issue of prospective
18 appointments to be made by the Governor with
19 Philip Morris?

20 A. No.

21 Q. To any office?

22 A. No.

23 Q. What was your involvement or
24 discussions or role in any way in the
25 appointment of Dr. Wilkerson to the state

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1 Board of Health?

2 A. Dr. Wilkerson is the Montgomery
3 County Republican party chairman who has been
4 a long-time friend of mine. And I think our
5 involvement would have been nil because of
6 that. We didn't need to check with the local
7 Bush and Republican county chairman to get a
8 political check on Wally Wilkerson. I'm
9 confident I said way to go when the
10 appointments office recommended him. But we
11 would not have done a political check.

12 Q. Did you have discussions with the
13 Governor about having him appointed?

14 A. I don't recall that. I'm
15 confident I had conversations with Clay
16 Johnson about it, the appointments chief.

17 Q. How did that process work is what
18 I'm asking.

19 A. How did his name emerge?

20 Q. Yeah.

21 A. I don't know. Not from me.

22 Q. How did you learn about it?

23 A. We were asked to do a political
24 check on him. We said no political check need
25 be done. He's a terrific fellow and the

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1 Republican county chairman and long-time
2 supporter of President Bush and Governor Bush.

3 Q. But you don't recall having
4 specific discussions with the Governor about
5 it?

6 A. No. I'm confident I didn't.

7 Q. Do you recall having any specific
8 discussions with Philip Morris about Dr.
9 Wilkerson?

10 A. No. In fact, I'm confident I
11 didn't.

12 Q. You mentioned the word
13 "intelligence" a few moments ago, and I don't
14 believe you were talking about smarts. I
15 think you were talking about information
16 gathering.

17 A. Uh-huh.

18 Q. Did you provide intelligence
19 services to Philip Morris from a political
20 standpoint?

21 A. On political races, yes.

22 Q. And how would you define the
23 intelligence services that you performed to
24 Philip Morris? How would you -- if you were
25 to give a description of providing

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1 intelligence services, how would you describe
2 that?

3 A. Well, part of it is just simply
4 the collection of data that is available in
5 the public arena, election statistics and so
6 forth and the analysis of them. But the rest
7 of it is sort of sifting out this constant
8 stream of gossip and conversation about
9 political races.

10 In the course of any day I would
11 talk to a lot of people, especially during
12 election times there are a lot of opinions
13 offered up about what is happening in a race
14 or a contest. Or I may have people that I
15 know that are paying attention to the race who
16 live in the community and I'm able to touch
17 base with them and find out what is going on.
18 So it's an informal process.

19 Q. And so keep your ears open and
20 your eyes open and discussions in your
21 day-to-day activities, and you go back to
22 Philip Morris and you tell them what you've
23 heard or observed?

24 A. No. My involvement with Philip
25 Morris was more -- was less frequent than

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1 that. I didn't call Philip Morris daily.
2 They would call and say we're interested in
3 knowing what the 10 most hard-fought races are
4 going to be this fall. Or would you please
5 tell us what you know about the candidates in
6 House District 13. Or will you rank the State
7 Senate races and tell us what you think are
8 the most interesting races to watch. And then
9 next month can you give us an update on those
10 five races? So this was not a question of
11 day-by-day contact. It was far less frequent
12 than that.

13 Q. Would any of the information that
14 you would be providing to Philip Morris be
15 information that you in part gathered from
16 your conversations with the Governor about
17 these issues?

18 A. No.

19 Q. You discussed races with the
20 Governor, didn't you?

21 A. Yes, but generally the information
22 is flowing from me to him. He's not spending
23 his day talking to politicals around the state
24 or checking on how the races are going.

25 Q. I understand. But you talk to

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1 various representatives and senators, and, I
2 assume, lobbyists and other people at
3 restaurants and other places about who's who
4 and what races are coming up and what the
5 prospects are and why and why not. But you
6 also have those types of discussions with the
7 Governor too, don't you?

8 A. But, again, the information is
9 generally coming from me to him and not the
10 other way around.

11 Q. He participates in the
12 conversation, doesn't he?

13 A. Sure.

14 Q. And then you go back to Philip
15 Morris and you give them that intelligence?

16 A. No, I don't. Again, you'll see in
17 the documents here, what remains of them, that
18 I will say, you know, here is the numbers on
19 the races or here is the survey data or here
20 are the polling results or here are the
21 telephone bank results. So the implication
22 that the Governor gives me information, which
23 I then call Philip Morris, was not the way it
24 worked.

25 Q. I think the tape is about to run

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1 out. What I'm trying to understand is, the
2 information, the intelligence, that you give
3 to Philip Morris, is your testimony that it's
4 from various sources all but the Governor?

5 A. Yeah. I don't recall the Governor
6 ever giving me a piece of information that I
7 would have conveyed to Philip Morris, no.

8 Q. And you're careful to make sure
9 that the information you give is just
10 information from all other sources other than
11 the Governor?

12 A. With all due respect, I'm the
13 person who is generally advising the Governor
14 as to what is going on in House District 13.
15 It's very unlikely that he's going to have
16 better intelligence than I am on what is going
17 on in House District 13 in the race. That's
18 why I'm there.

19 MR. MIKHAIL: Let's take a
20 short break.

21 THE VIDEOGRAPHER: Off the
22 record.

23 (A recess was taken.)

24 THE VIDEOGRAPHER: Tape two.
25 On the record.

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1 MR. MIKHAIL: May I go
2 ahead?

3 THE VIDEOGRAPHER: Yes.

4 Q. (By Mr. Mikhail) Mr. Rove, you
5 mentioned, if I'm not mistaken, in your
6 testimony earlier about two projects or two
7 special projects you did for Philip Morris in
8 the area of tort reform in 1991 or '92; am I
9 correct?

10 A. '91.

11 Q. '91. What were those projects?

12 A. They weren't in the area of tort
13 reform. One was to make up a -- compile a
14 list of political donors and key community
15 leaders in selective legislative districts. I
16 can't remember if it was State and House or
17 State only. That was in the summer of '91.

18 And then in the fall of '91 after
19 redistricting had been largely completed,
20 although we continued to redistrict over the
21 course of the 90's, it was to do an in-depth
22 analysis of the House and Senate districts and
23 provide an analysis of which of those
24 districts would be in play in the '90s and
25 which were largely likely to remain Republican

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1 and which were likely to remain Democrat.

2 Q. None of those projects involved
3 tort reform or product liability?

4 A. No.

5 Q. Did you advise or give opinions to
6 Philip Morris from 1991 -- any time from 1991
7 to 1996, December of '96, when you stopped
8 working for them, in the area of tort reform
9 or product liability?

10 A. No. I have a recollection which
11 was refreshed by the documents of -- I did
12 receive one phone call from Bernie Robinson
13 asking if I could get a copy of a speech that
14 Dan Quayle had made while vice president about
15 tort reform. But, you know, as far as advice
16 on tort reform, no.

17 Q. Did they ask you about the
18 political landscape in the area of tort reform
19 or product liability?

20 A. No.

21 Q. Did they ask you about personality
22 of legislators of entities, organizations, who
23 may be for or against tort reform, what the
24 landscape was as to tort reform?

25 A. No. I would offer information by

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1 candidates, and I'm confident I may have put
2 in there if a candidate was an advocate of
3 tort reform or an opponent of it. I would put
4 that in my analysis but --

5 Q. All right. Mr. Rove, when you
6 were working on -- were you involved in any
7 way in the legislative program on tort reform
8 and products liability in the campaign by
9 Governor George Bush before he got elected in
10 putting his legislative program together?
11 Were you involved at all --

12 A. Yes.

13 Q. -- in the structuring of the tort
14 reform and products liability?

15 A. Not the specifics, but as far
16 as --

17 Q. Broad policy?

18 A. -- as identifying the political
19 influence of trial lawyers and the utility of
20 frivolous and junk lawsuits as being a
21 political issue, yes.

22 Q. Did you discuss the political
23 influence of business entities in the area of
24 products liability and tort reform as you
25 planned putting together a program?

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1 A. No.

2 Q. You mentioned the power and
3 influence of trial lawyers. You never
4 discussed in that process the political power
5 or influence of groups other than trial
6 lawyers on the other side?

7 A. Not that I recall. And if I did,
8 I would have done so in a disparaging way.

9 Q. In other words, you did not
10 discuss with the Governor the power or
11 influence for or against tort reform of any
12 other group except the trial lawyers?

13 A. In the context of a political
14 campaign, no. I mean, there is very little
15 money generated in a political campaign by
16 supporters of tort reform until recent
17 elections. Texans for lawsuit reform is the
18 first instance I've seen where in a race for
19 legislative races where large sums of money
20 were generated over the issue of tort reform.
21 I've never seen in a statewide race for
22 Governor or Lt. Governor large sums of money
23 generated from the business community on the
24 basis of one issue, tort reform.

25 Q. But was a center concern or main

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1 concern in the program and in your philosophy
2 in the area of tort reform or product
3 liability a need, or as a trial lawyer I will
4 say a perceived need on your part but a need
5 in quotes for restrictions on the ability to
6 bring claims by plaintiffs?

7 A. I believe that the issue of
8 frivolous and junk lawsuits is a very potent
9 issue with ordinary voters.

10 Q. How would you define -- obviously
11 you've been involved in this, you have strong
12 opinions. Without giving me an outrageous
13 example, I'm asking you specifically what
14 would you define in your mind as a frivolous
15 claim.

16 A. The woman from North Texas who
17 buys her son a car to -- or grandson a car to
18 drive back and forth to community college in
19 Oklahoma and then gets sued when he has an
20 accident. She gets sued. Or the guy in
21 Lubbock who lends a ladder to his neighbor and
22 then proceeds to get sued by his neighbor when
23 his neighbor falls off the ladder for having
24 not instructed him properly that ladders were
25 dangerous.

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1 Q. Are those specific cases --

2 A. Yes.

3 Q. -- that took place? And did the
4 individual recover in both instances?

5 A. Yes.

6 Q. Was there a finding by a jury or
7 by a judge?

8 A. I can't recall.

9 Q. And your conclusion, I take it, is
10 that the decision of the jury was giving
11 relief on a frivolous claim?

12 A. Yes.

13 Q. You believe that the claim was not
14 valid or not meritorious?

15 A. Yes.

16 Q. And you would substitute your
17 judgment to the judgment of the jury that
18 heard all the evidence?

19 A. Yes.

20 Q. And you feel that you are in a
21 position to do that, to make the judgment
22 based on evidence you haven't heard?

23 A. I'm entitled to an opinion.

24 Q. Certainly.

25 A. And my opinion is that there are

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1 too many lawsuits and too many frivolous
2 claims filed by people against other people.
3 That the legal system is jury-rigged. And
4 it's rigged in a certain way.

5 Q. Are you suggesting "rigged"
6 meaning what?

7 A. Meaning that the rules of
8 evidence, the process by which cases are
9 brought to court, the rules regarding those
10 cases are tilted towards one side as opposed
11 to being neutral.

12 Q. Tilted to one side meaning the
13 plaintiff?

14 A. Right, the trial bar.

15 Q. The trial bar is the attorneys.
16 Are you talking about the plaintiffs?

17 A. Personal injury plaintiff's bar.

18 Q. They're tilted in favor of the
19 personal injury plaintiff's bar?

20 A. Right.

21 Q. We're not talking about lawsuits
22 by the attorneys themselves being the
23 parties. We're talking about a plaintiff, an
24 individual, correct?

25 A. Yes.

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1 Q. And the laws are in favor of the
2 plaintiff's attorney, not the plaintiff?

3 A. They are -- we have had an
4 explosion of lawsuits in this country in which
5 large claims are won that -- give the Alabama
6 case where the fellow had the BMW that had the
7 paint job, the retouched paint job, and had a
8 \$20 million verdict which was later reduced to
9 \$2 million for a \$5,000 paint job. A little
10 extreme in my opinion.

11 Q. You can give me examples I'm sure,
12 Mr. Rove, and you and I are on opposite
13 philosophical --

14 A. Sure. I understand. And I'm not
15 certain, really, what this has to do with --

16 Q. I'm not trying to argue with you.
17 I'm simply trying to ask you, I would like a
18 definition without giving me the woman from
19 Lubbock or the guy that drove to Oklahoma. I
20 want to know what is your definition of a
21 frivolous claim. A claim that should not be
22 allowed?

23 A. I'm sorry. I thought you asked me
24 for examples.

25 Q. No, I said without giving me

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1 examples.

2 A. Earlier.

3 Q. If I did, I'm sorry. Without
4 giving me specific examples, how would you
5 define a frivolous claim?

6 A. Cases in which people don't take
7 responsibility for their own actions and
8 attempt to shift the cost of their own actions
9 to other individuals, many of -- some of whom
10 may have nothing to do with the instance at
11 hand.

12 Q. But it's the consequences of their
13 own actions that we're talking about, aren't
14 we?

15 A. Whose actions?

16 Q. In other words, you believe that
17 individuals ought to be responsible for the
18 consequences of their own actions?

19 A. Yes.

20 Q. We're not talking about the
21 situation where the consequences are people --
22 to people are not as a result of their own
23 actions, correct?

24 A. Correct.

25 Q. You understand the nature of this

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1 lawsuit that is in Federal court in Texarkana
2 being the State of Texas against the tobacco
3 industry, don't you? You know the nature of
4 the lawsuit?

5 A. Yes.

6 Q. It is an attempt -- and correct me
7 if that's not what you understand -- by the
8 State of Texas to recover monies expended by
9 the taxpayers of the State of Texas on
10 indigent care in Texas, whether it's through
11 Medicaid or other programs, but indigent care
12 on tobacco-related illnesses paid for by the
13 taxpayers of the State of Texas; isn't that
14 correct?

15 A. To the best of my knowledge, yeah.

16 Q. And the State of Texas is not
17 trying to recover, is it, Mr. Rove, money for
18 any individual smoker who smoked and
19 contracted a smoking-related illness. You
20 understand that?

21 A. I'm not familiar with the details
22 of the case, no.

23 Q. You don't think that the State is
24 trying to recover for John Doe who smoked and
25 got a disease and then is going to give him a

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1 pile of money, do you?

2 A. I don't know. And it's frankly
3 not something I've paid much attention to or
4 formed an opinion about.

5 Q. Is it your testimony, Mr. Rove,
6 that you don't know whether or not this
7 lawsuit is attempting to recover money for any
8 individual?

9 A. I didn't know that portion. I
10 knew that it was attempting to recover money
11 on behalf of the taxpayers.

12 Q. If I were to represent to you as
13 an officer of the court that it is an attempt
14 to recover money for the public risk for
15 taxpayers in the State of Texas whose money
16 was used to pay for tobacco-related illness
17 for indigents who couldn't afford to pay,
18 would you characterize this lawsuit and this
19 attempt to recover by the taxpayers as a
20 frivolous lawsuit?

21 A. No.

22 Q. Do you believe that this is a
23 meritorious claim?

24 A. Is "meritorious" a legal term of
25 art?

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1 Q. You're not a lawyer, so I'm not

2 going --

3 A. I'm not.

4 Q. I don't want to get you in that

5 position. Do you believe -- nonlegally do you

6 believe that this is the type of claim that

7 has merit?

8 A. It's what courts decide.

9 Q. What do you believe? You

10 expressed opinions about a frivolous claim.

11 A. I don't know the details of the

12 law, and I know this is a highly technical

13 case and that's going to be up to a judge and

14 jury to decide. My only complaint about the

15 case is if the State of Texas is going to

16 pursue it, it ought to pursue it rather than

17 bringing in outside counsel, with all due

18 respect. I don't believe that that's a

19 legitimate role or function of the state

20 Attorney General to in essence turn very

21 highly lucrative cases over to outside

22 lawyers. And I just don't feel -- we elect

23 somebody to do that.

24 Q. Your objection is --

25 A. Otherwise --

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1 Q. We can't talk -- I'm sorry.

2 A. Go ahead.

3 Q. Your objection is not that the
4 merits of the claim by the State of Texas to
5 collect money for its taxpayers. You don't
6 believe that that is a frivolous claim?

7 A. No.

8 Q. Your objection is how the state is
9 going about doing it, one way being hiring
10 some outside counsel; is that correct?

11 A. Correct.

12 Q. Are you talking about outside
13 counsel meaning outside the AG's office
14 including private law firms in Texas, or are
15 you talking about -- you just have a problem
16 with out-of-state lawyers?

17 A. Both in-state and out-of-state.

18 Q. So if this lawsuit were brought
19 simply by the Attorney General without outside
20 lawyers, you wouldn't have a problem?

21 A. I wouldn't. And I wouldn't if the
22 outside lawyers were being compensated on an
23 hourly basis rather than getting a significant
24 share of the proceeds. If the interest is
25 returning it to the taxpayers, I think the

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1 taxpayers ought to get the maximum dollar
2 back.

3 Q. I'm not trying to get in an
4 argument with you.

5 A. I don't understand why we're
6 talking about this.

7 Q. I want to know your opinion about,
8 and how you view this lawsuit, whether or not
9 in your opinion since you were involved in
10 tort reform and products liability and
11 frivolous lawsuits whether you believe this
12 cause of action is frivolous and your answer
13 is that it is not?

14 A. Correct.

15 Q. When you worked for Philip Morris
16 from 1991 to 1996, did you report to anybody
17 specifically at Philip Morris?

18 A. Bernie Robinson in the early days,
19 and then Jack Dillard for most of the last
20 five years, six years.

21 Q. And how did that logistically
22 work? Did you send written reports on a
23 particular regular basis, or did you pick up
24 the phone and call? Did you fax something to
25 them? How did you do it?

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1 A. I would fax and mail reports upon
2 request, or give Jack information over the
3 phone.

4 Q. And that's over a period from 1991
5 to the end of 1996?

6 A. Right. We would occasionally, and
7 I mean very occasionally, once or twice a year
8 at most, meet in his office and talk for a
9 while.

10 Q. Would those reports be in that
11 folder, Mr. Rove?

12 A. Some of them are. Most of them
13 are not. Most of these are highly
14 perishable. You know, intelligence on a race
15 in August of 1992 is not stuff that we keep in
16 our files. We recovered these and this is
17 what exists.

18 Q. Okay. What you brought with you
19 when you were served with the subpoena is
20 everything that was in existence when you were
21 served with the subpoena?

22 A. Yes.

23 Q. In other words, anything that may
24 have been destroyed or thrown away was in the
25 normal course of business?

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1 A. Yes.

2 Q. All right. Was anything destroyed
3 or thrown away ever from 1991 to 1997
4 specifically at the request of Philip Morris?

5 A. No.

6 Q. How often would you report to
7 Philip Morris?

8 A. It would depend on the time of the
9 year and the year. In off election years, I
10 might get requests for written information
11 three or four times a year, and I might get a
12 number of other phone calls. In an election
13 year I might get three or four requests in the
14 fall, not just over the course of the year.
15 It just depended.

16 Q. And your testimony is that you've
17 never advised the Governor on issues dealing
18 with cigarette facts; is that right?

19 A. Correct.

20 Q. Youth access laws?

21 A. Correct.

22 Q. Use restrictions like in
23 nonsmoking sections of restaurants or anything
24 like that?

25 A. Correct.

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1 Q. You have not?

2 A. Correct.

3 Q. What about legislation to impose
4 licenses on retailers or permits or anything
5 of that sort to generate revenue to pay for
6 health care improvements or anything like
7 that?

8 A. Have not talked to them.

9 Q. Retailers who sell tobacco. You
10 have not?

11 A. I have not.

12 Q. Did you attend or did you go to
13 the Republican National Convention in San
14 Diego?

15 A. Yes.

16 Q. Did you participate in any
17 functions paid for in whole or in part by
18 Philip Morris?

19 A. They contributed generously to the
20 convention, so I suspect I did.

21 Q. What did they contribute to your
22 knowledge? Did they sponsor a dinner?

23 A. I have no idea.

24 Q. Were you present at any function?

25 A. I know they were large

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1 underwriters of the convention. And I know
2 they are generous contributors, for example,
3 to the Republican Governors' Association. I
4 attended the RGA luncheon there. And I
5 attended a lot of convention functions. I'm
6 confident Philip Morris underwrote directly or
7 indirectly something that I attended.

8 Q. Did the Governor also attend?

9 A. The Governor was at the
10 convention, yes.

11 Q. Did he attend the RJR luncheon?

12 A. RGA.

13 Q. I thought you said RJR.

14 A. RGA.

15 Q. Was there any luncheon that was
16 paid for or funded in part by, specific
17 banquet or luncheon, by the tobacco industry?

18 A. I do not recall attending the
19 tobacco luncheon or tobacco dinner. But your
20 question was did I attend something that was
21 funded by Philip Morris, and as one of the
22 larger convention underwriters with RJR and
23 others, I'm confident that I somehow
24 benefitted from that.

25 Q. Did you participate in any way in

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1 arranging for any functions at the Republican
2 convention in San Diego in arranging for
3 funding by Philip Morris or any other tobacco
4 interests?

5 A. No.

6 Q. Did you discuss with the Governor
7 prior to the convention any prospective
8 funding of any activities at the convention by
9 the tobacco industry?

10 A. No.

11 Q. Is it fair to say, Mr. Rove, that
12 you are an influential man in Texas politics?

13 A. It's a subjective judgment.

14 Q. Do you believe you have influence,
15 political influence?

16 A. Again, that is a subjective
17 judgment. I can help candidates win and do.

18 Q. You are close to the Governor,
19 aren't you?

20 A. Yes.

21 Q. You have his trust and his
22 confidence I assume, correct?

23 A. I hope so.

24 Q. And you have access to him, do you
25 not?

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1 A. Yes, I do.

2 Q. And is it fair to say that you
3 have influence with the Governor?

4 A. I can.

5 Q. Do you believe that when Philip
6 Morris pays you and uses your services that it
7 is attempting to buy influence in Texas
8 politics?

9 A. No.

10 Q. Why not?

11 A. They hired me in 1991 when I was a
12 Republican in a state with no elected
13 statewide Republicans except the treasurer and
14 agriculture commissioner. And I can't see
15 that they were foresighted enough to say this
16 guy will be the political director for the
17 next governor.

18 Q. Do you have any future aspirations
19 with Governor Bush's career, political career?

20 A. Sure.

21 Q. And what are those?

22 A. That I play a role in his
23 reelection campaign.

24 Q. For governor?

25 A. Right.

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1 Q. Do you have any aspirations to
2 play a role in any national office like a
3 presidential race?

4 A. All premature conversation. If he
5 were to run for president, sure I'd like to be
6 involved. He's been my friend and has been so
7 for 25 years.

8 Q. Have you discussed with Philip
9 Morris the prospects of contributions or
10 funding financial help for a prospective race
11 by Governor Bush for president?

12 A. No.

13 Q. What did Philip Morris pay you
14 money to do, Mr. Rove?

15 A. Help them make wise use of their
16 political dollars.

17 Q. And they believed you were one
18 that could do that?

19 A. Yes, one of several.

20 Q. It helps, does it not, for Philip
21 Morris to have someone in as high a position
22 as you in state politics in the State of
23 Texas, doesn't it?

24 A. If they want to use their money
25 wisely, I suspect so.

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1 Q. Is it fair to say they have

2 friends in high places, then?

3 A. No. They had somebody that they

4 retained for a number of years to give them

5 political advice.

6 Q. Someone who is in a high position

7 now?

8 A. And no longer works for them.

9 Q. Correct. But during two years of

10 the Governor's administration, you worked for

11 them and for the Governor, correct?

12 A. Right, correct.

13 Q. Was Philip Morris or other members

14 of the tobacco industry contributors to

15 campaigns that you worked on for races other

16 than Governor Bush, all the Republican races

17 that you talked about?

18 A. Some of them I'm sure, but I

19 couldn't tell you which ones and which ones

20 not.

21 Q. At the same time that you were

22 working on those campaigns you were also

23 consultant for Philip Morris '91 to '96?

24 A. I'm confident, yes, over that

25 period, yes.

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1 Q. Sounds to me like you're well

2 connected, Mr. Rove; isn't that right?

3 A. Subjective.

4 Q. But you are well connected in

5 state politics, aren't you?

6 A. Again, subjective. Yes.

7 Q. What involvement did you have in

8 the push poll incident or situation? Could

9 you just tell me exactly what role you played,
10 if any?

11 A. Yeah. At some point during that

12 process I was sent a copy of a draft. As I

13 recall, it's the fifth draft of the copy that

14 will be in the documents you'll get. And

15 asked my opinion on the draft. And I had some

16 technical questions about that I raised

17 regarding the design of the instrument.

18 Q. Who brought it to you?

19 A. Jack Dillard.

20 Q. Jack Dillard who was a lobbyist

21 for Philip Morris?

22 A. Right.

23 Q. Or is he an employee of Philip

24 Morris?

25 A. He's an employee.

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1 Q. He's actually governmental affairs
2 or something?

3 A. Right.

4 Q. He came to you?

5 A. Right.

6 Q. With the poll?

7 A. Right.

8 Q. All right. And what did he tell
9 you?

10 A. He said we're going to field this
11 poll. Would you take a look at it and see if
12 you've got any comments to make about it? I
13 called him back to say I don't have comments.
14 You've got a series of factual questions here
15 that you're attempting to judge. I can't tell
16 you whether -- these need to be factual
17 because otherwise you're getting garbage. But
18 I did have, and I cannot remember what they
19 were, some technical concerns about the
20 design, how they entered into the series of
21 questions and then some questions about the
22 demographics that they were collecting.

23 Q. What happened next after you gave
24 the comments?

25 A. He gave me comments. And some

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1 number of weeks later I was invited at the
2 last minute to come to a meeting at which the
3 poll was apparently being presented. I was
4 asked to the meeting obviously after it began
5 because they said could you come over in 15 or
6 20 minutes.

7 Q. Who called you?

8 A. Jack Dillard's office.

9 Q. Okay.

10 A. And they had had a meeting and
11 they talked about the poll.

12 Q. Were you present during the
13 meeting?

14 A. I was present at what would have
15 been the latter part of the meeting.

16 Q. Who was there --

17 A. I don't --

18 Q. -- to the best of your
19 recollection?

20 A. I remember Stan Schleuter was
21 there. The people from Public Opinion
22 Strategies which conducted the poll. Jack
23 Dillard. And most of the people I didn't know
24 because they were lobbyists. I never attended
25 the lobby meetings. Never was invited. Did

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1 not know who was on the lobby team.

2 Q. In what capacity did Mr. Dillard

3 call you? In other words, were you going

4 there as a Philip Morris --

5 A. We've got a poll --

6 Q. -- consultant?

7 A. Yeah.

8 Q. Or were you going as the director

9 of the Governor Bush Committee?

10 A. My recollection is that I was

11 called and they said would you come over

12 there, it's a presentation about a poll.

13 Would you come in and listen in and would you

14 come in 20 minutes or something? It was 10:00

15 or something.

16 Q. I'm asking when you went were you

17 going in the capacity of -- which one?

18 A. Philip Morris.

19 Q. Okay. All right. Go ahead. And

20 at the meeting --

21 A. They obviously presented the

22 poll. They gave me a copy of it, and they

23 discussed it and asked my opinion of it. My

24 opinion of it was that if the information was

25 fairly depicted, that it was a powerful poll.

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1 And then the question was should this be given
2 to the Attorney General. And my opinion was
3 these things do not tend to remain anonymous
4 and secretive and hidden. And that they were
5 better off going and giving it to him than
6 attempting to think that it would not somehow
7 get out.

8 Q. And it was upon your advice?

9 A. No. Again, they had apparently
10 been discussing this for some time. They had
11 been discussing a number of items.

12 Q. But they asked your advice or
13 opinion?

14 A. As I recall, they said, now, we've
15 been discussing this question, where would you
16 be on this? I said, Polls don't remain --
17 with a group this large and with as many
18 copies -- as I recall it had a big sample
19 too -- so in all likelihood somebody would be
20 called who could remember something about the
21 poll and might have communicated it to
22 Morales. I said these things don't remain --
23 these things don't remain secretive and you're
24 better off just being straightforward about
25 it.

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1 Q. Mr. Rove, was there any discussion
2 or suggestion by anyone at the meeting that
3 the sponsor or commissioner or who's behind
4 the poll be kept secret? If there was a
5 discussion about these things are going to
6 come out, and these things are likely to come
7 out, it sounds to me like maybe you're
8 suggesting that there was some discussion
9 about keeping it secret. Was there?

10 A. There may have been prior to --
11 the question I was given was should we give
12 this to Morales or should we not. And I said,
13 you know --

14 Q. They did pose that question to
15 you?

16 A. Yeah, yeah.

17 Q. And your advice was you should
18 give it to the Attorney General?

19 A. Right.

20 Q. Was there a discussion about
21 giving it to the Governor?

22 A. No. But later Jack called me and
23 said, I'm sending you a copy of the complete
24 survey. I didn't leave with a copy of the
25 survey. He said, I'm sending you a complete

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1 copy of the survey, and if you want to give it

2 to the Governor, you can. And I did not.

3 Q. Jack said you can give it to the

4 Governor?

5 A. Right.

6 Q. And you refused?

7 A. No, I said, Fine, thank you, but

8 didn't. This was -- apparently they

9 delivered -- hand-delivered a copy to

10 everybody in the state government. Eventually

11 Bush got a copy. My job was not to be the

12 conveyor of the poll.

13 Q. Is it fair to say, Mr. Rove, that

14 your impression when you arrived at the

15 meeting that there was a discussion of whether

16 or not to reveal the source of the poll?

17 A. That was my sense, that they had

18 discussed it, yes.

19 Q. And that one of the prospects was

20 not to reveal the identity of the sponsor?

21 A. Not to make the poll public, at

22 all.

23 Q. Not to disclose it period, not to

24 use it at all?

25 A. Right.

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1 Q. Okay. Let me make sure I
2 understand.

3 A. Use is --

4 Q. I want to know what your
5 impression was.

6 A. My impression was, you know, do we
7 just sort of look at the poll and act on the
8 information that it gives us, or do we share
9 with the attorney general. And my point was
10 in the large group of people that are aware of
11 this, and it's going to get out, better to let
12 them hear it from you than let them hear it
13 third hand. Which is apparently the opinion
14 of most of the people in the room from my
15 reaction.

16 Q. So I want to get this straight.
17 Your impression was that the discussion was at
18 least in part whether or not to reveal the
19 results to anyone. Was that your impression?

20 A. Yes.

21 Q. Was that your impression?

22 A. Yes.

23 Q. And was it your impression that
24 one of the options that had been discussed was
25 revealing the results or using the results but

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1 not sharing them with the Attorney General?

2 A. Yes.

3 Q. And your advice was that it should
4 be made public and should be shared with the
5 Attorney General?

6 A. Well --

7 Q. Not necessarily in that order.

8 A. Correct.

9 Q. Okay. And your reason was what
10 specifically?

11 A. There were a large number of
12 people in the room who had seen the poll, been
13 at the poll presentation and had heard about
14 it and, you know, the information about it was
15 likely to get out.

16 Q. So the reason why you advised that
17 the Attorney General be given a copy and be
18 shown the results was a concern that it's
19 going to leak?

20 A. Sure.

21 Q. All right. What was the reason
22 that you recommended that the results of the
23 poll be made known?

24 A. That reason. I mean --

25 Q. Not made known to the Attorney

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1 General, made known and used period.

2 A. I did not make that
3 recommendation.

4 Q. You did not address that issue?

5 A. No.

6 Q. You did not address the issue of
7 whether or not this information should be used
8 for any reason?

9 A. Yeah, not that I recall.

10 Q. No?

11 A. "Use" is a very important word.
12 When you read a poll, you're using it, you're
13 taking that information and you'll act on it.

14 Q. Let me change the word. Publicize
15 it.

16 A. No, that was not a question.

17 Q. There was an article by Wayne
18 Slater in the Dallas Morning News, the Austin
19 Bureau, on March 30, 1996, and it specifically
20 says in the article, Mr. Rove said that he
21 attended as a paid consultant to Philip
22 Morris, talking about the meeting you're
23 referring to. And then it says, he
24 subsequently delivered a copy of the poll to
25 the Governor's office, quote, in my role as

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1 Governor Bush's political committee director,
2 end quote.

3 Did you deliver a copy?

4 A. I gave it to Joe Allbaugh. I
5 did. And Joe then proceeded to say, I'm going
6 to throw this away.

7 Q. Who is Joe Allbaugh again?

8 A. The Governor's executive
9 assistant.

10 Q. He said he was going to throw it
11 away?

12 A. Yeah, and he did. I said -- I
13 can't remember what I said. I said, Joe, I've
14 been asked to -- I feel awkward. You'll get a
15 copy eventually. And Joe said, Fine. I'll
16 get a copy eventually.

17 Q. Why did you take it over to the
18 executive assistant to the Governor?

19 A. I can't remember.

20 Q. It was a Philip Morris sponsored
21 poll?

22 A. I think it was because I was asked
23 to in the context of my role. We're sending
24 this to you in the context of your role as an
25 advisor to the Governor. I can't remember

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1 exactly the process.

2 Q. Your involvement was a consultant
3 to Philip Morris?

4 A. Well, I attended the meeting as a
5 consultant to Philip Morris.

6 Q. And when you delivered it to the
7 Governor, you delivered it as a consultant to
8 the Governor?

9 A. Yes.

10 Q. How are you able to make that fine
11 distinction?

12 A. Because I was given the poll and
13 asked to in my role to, you know, Bush
14 political, we're delivering this to every
15 statewide official and you're the head of the
16 Governor's political staff and we'll give it
17 to you.

18 Q. And also were a paid consultant to
19 Philip Morris?

20 A. Right.

21 Q. So you took your Philip Morris hat
22 off --

23 A. Right.

24 Q. -- from receiving the poll and
25 being a part of the meeting about the poll --

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1 A. Right.

2 Q. -- and discussion about what to do
3 with the poll, and you put your Governor's
4 consultant hat on and delivered the poll to
5 the Governor's office?

6 A. Right.

7 Q. When you delivered it to the
8 Governor's office, your expectation was, was
9 it not, Mr. Rove, that the Governor get the
10 poll?

11 A. No, that was not my expectation.

12 Q. Why did you take it to the
13 executive assistant?

14 A. Because it's his call to make.

15 Q. What was your expectation? That
16 he see it or not see it?

17 A. No, that he not see it.

18 Q. Did you advise --

19 A. I can't remember the specifics. I
20 can remember the clear conversation between
21 Joe and I was something like, This has now
22 been delivered to Morales. It's floating
23 around. You're going to get a copy
24 eventually. I was asked to give this. They
25 sent it to the Bush Committee, I recall now.

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1 They sent it to me at the Bush Committee,
2 which is a separate office from mine. So I
3 had to pick it up from the Bush Committee.
4 Joe said, Fine, if we'll get a copy
5 eventually, we'll get a copy and threw it
6 away.

7 Q. Do you believe, Mr. Rove, that
8 your taking off the Philip Morris hat and
9 putting the Governor's chief consultant hat on
10 and delivering this poll that related to
11 tobacco -- directly related to the issue of
12 tobacco was in contravention violated the
13 understanding that you and the Governor had
14 that you're not to bring to him or talk to him
15 or discuss with him or have anything to do
16 with tobacco as it relates to your
17 relationship with the Governor?

18 A. Right.

19 Q. Do you believe that you're doing
20 that violated that understanding?

21 A. No.

22 Q. Why not?

23 A. Because I wasn't talking to him
24 about it.

25 Q. But you delivered a document to

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1 his office.

2 A. With no expectation that he'd see
3 it.

4 Q. But you did deliver a document to
5 his office that related to tobacco that you
6 obtained from Philip Morris, did you not?

7 A. In my role as the political
8 director of the Governor Bush Committee.

9 Q. But the issue related to tobacco,
10 didn't it?

11 A. It related to a poll, yes.

12 Q. But it related to tobacco. It was
13 related to tobacco, was it not?

14 A. Yes.

15 Q. And you obtained it as a
16 consultant for Philip Morris, correct?

17 A. No, I obtained it -- when I left
18 the meeting as a consultant for Philip Morris,
19 I did not have a copy of the poll.

20 Q. But you participated in a meeting
21 about the poll and were informed of it and
22 came to learn of it in your capacity as a
23 Philip Morris consultant?

24 A. Correct.

25 Q. And then you delivered it to the

1 office of the Governor as a consultant to the
2 Governor, correct?

3 A. Later by some -- as I recall, some
4 time later. I mean there is a passage of at
5 least days if not a week between the two
6 times.

7 Q. Isn't it fair to say, Mr. Rove,
8 that you had contact with the office of the
9 Governor on an issue related to tobacco when
10 you said that you weren't going to do that?

11 A. Fine. Yeah.

12 Q. That is correct, isn't it? Your
13 answer is yes?

14 A. No.

15 Q. Your answer is not yes?

16 A. I'm not certain exactly what your
17 point is. If you could restate the question.

18 Q. I'll rephrase the question. I
19 believed that we established from your
20 testimony earlier that you had an
21 understanding with the Governor and that you
22 had a personal standard or personal role that
23 you were not going to bring to the Governor or
24 talk to the Governor, have any connection or
25 contact with the Governor on any

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1 tobacco-related issue because you felt that
2 there may be a conflict. You were a Philip
3 Morris consultant and also his chief political
4 consultant. Isn't that correct?

5 A. Correct.

6 Q. All right. And the issue of the
7 push poll was a tobacco-related issue, was it
8 not?

9 A. Correct.

10 Q. All right. And yet you did bring
11 to the Governor's office a document that was
12 tobacco related, didn't you?

13 A. Yes.

14 Q. And that violates the standard or
15 rule or measure or understanding that I just
16 described, that we had already established,
17 does it not?

18 A. No.

19 Q. And why not?

20 A. Because it was not with the
21 Governor. You're trying to say that there
22 is -- that it's the same thing to say I
23 received this at the Bush Committee in my
24 capacity as the Bush political director,
25 you'll be getting a copy of it one way or the

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1 other and sitting down and discussing with the
2 Governor a state law regarding preemption. And
3 I don't think they're anywhere similar.

4 Q. You don't see it as a violation?

5 A. No.

6 Q. What would you have had to do for
7 it to be a violation?

8 A. Governor, here is a poll. Let's
9 sit down and let's talk about it.

10 Q. And when you gave it to the
11 executive assistant, wasn't there a chance, a
12 possibility, that it would get into the
13 Governor's hands?

14 A. No. Joe did the right thing with
15 it.

16 Q. But there was a chance, Mr. Rove,
17 that it could get into the Governor's hands,
18 wasn't there?

19 A. I don't believe so, no.

20 Q. So you went there guaranteed it
21 would not?

22 A. Yeah.

23 Q. How?

24 A. If he had said, Let's go show it
25 to the Governor, I would have said, I don't

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1 think we ought to. This is a matter between
2 Philip Morris and Morales. I think we ought
3 to ditch the poll.

4 Q. You don't believe giving it to the
5 Governor's office is the same thing as giving
6 it to the Governor?

7 A. Not if it ends up in a trash can.

8 Q. But there was a possibility that
9 once you gave it and entrusted it to the
10 executive assistant that the executive
11 assistant would have made the call, as you
12 said earlier, to give to it the Governor?

13 A. He might have.

14 Q. All right. Did you tell Philip
15 Morris, did you tell Jack Dillard or anyone
16 else connected with Philip Morris that you did
17 not want to or preferred not to deliver or
18 make the Governor aware or the Governor's
19 office aware of the push poll?

20 A. No.

21 Q. Why not?

22 A. Because that was in my role as
23 Governor Bush's -- they were giving it to me
24 in my role specifically as Governor Bush's
25 political director, and I'm not obligated to

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1 tell them about my opinions in that role.

2 Q. They gave you the poll, the
3 document to take to the Governor's office, in
4 your capacity as a consultant but you learned
5 of it and were advised of it and discussed it
6 with them in your role as a Philip Morris
7 consultant. That's why you were invited to
8 the meeting, correct?

9 A. Yes.

10 Q. And what is your reason why you
11 didn't tell Philip Morris that you were
12 reluctant to give it to the Governor?

13 A. Because I wasn't working for
14 them. I was working in that capacity as
15 Governor Bush's political director.

16 Q. But you were a paid consultant at
17 the same time and you obtained it as a paid
18 consultant?

19 A. No, I did not obtain it -- I
20 obtained knowledge of it as a consultant, but
21 I obtained a copy of it only in my guise as
22 Governor Bush's political director.

23 Q. I see. Do you believe that -- do
24 you believe that smoking cigarettes causes
25 various diseases and illnesses including lung

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1 cancer, heart disease and emphysema?

2 A. Sure.

3 Q. Do you believe that it is an
4 addictive drug, that nicotine and cigarette
5 smoking is addictive?

6 A. For some people I believe it is,
7 yes.

8 Q. Do you believe that it is a
9 pharmacologically and physiologically
10 addictive drug?

11 A. Those are terms of art. It's
12 addictive for people.

13 Q. You couldn't define -- I know
14 you're not a physician or scientist, but you
15 don't know what pharmacological means or
16 physiological means in a precise sense?

17 A. No.

18 Q. You think of nicotine in the same
19 way that you think of Cocaine or Heroin or a
20 barbiturate drug?

21 A. No. One is legal and one is
22 illegal.

23 Q. One is legal and one is illegal?

24 A. Right.

25 Q. And that's the only distinction?

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1 A. No.

2 Q. That's the distinction you're
3 prepared to make?

4 A. No. I'm confident -- and not from
5 personal knowledge -- that Cocaine and other
6 drugs cause effects that are different than
7 tobacco. I can't speak for either one of them
8 from personal experience. I don't smoke, and
9 I don't use drugs. But I'm confident that
10 there is a difference between my father
11 smoking a cigarette and my father snorting
12 Cocaine.

13 Q. From the effect that nicotine has
14 on the brain and on the physiological reaction
15 of the body and from a pharmacological
16 standpoint, you don't compare it to the effect
17 and impact of hard drugs like Cocaine and
18 Heroin, do you?

19 A. No. I'm confident -- my father
20 may die of lung cancer, but my father could
21 die immediately from ingesting Cocaine. And
22 therein lies the difference.

23 Q. Mr. Rove, do you know the number
24 of people that die each year from Cocaine and
25 Heroin?

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1 A. No.

2 Q. Do you know how many people die
3 each year from tobacco-related illnesses?

4 A. I don't.

5 Q. Would it surprise you if the
6 consensus or the average number from all
7 studies, the totality of the evidence, whether
8 it be the Centers for Disease Control, the
9 Department of Health and Human Services, all
10 the voluntary health groups, that about 20,000
11 people die from hard drugs and 420,000 die
12 from tobacco-related illnesses a year?

13 Would that surprise you?

14 A. No.

15 Q. It would not?

16 A. No.

17 Q. Does that not suggest to you that
18 the tobacco disease and illness is a greater
19 problem than illnesses or diseases or death
20 from the hard drugs? Does that suggest that
21 to you, those numbers?

22 A. If you look at it only in terms of
23 death. But what are the social consequences
24 of widespread use of drugs, its impact on the
25 economy, its impact on crime?

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1 Q. I understand that. I'm talking
2 about the numbers of death each year.

3 A. Right.

4 Q. The number of deaths.

5 A. Right.

6 Q. Looking at it from the numbers of
7 deaths, the problem of tobacco is much
8 greater, assuming those numbers are correct,
9 than deaths from Heroin or Cocaine, correct?

10 A. I hadn't thought about it. I'll
11 accept your assumption.

12 Q. You were aware all these years you
13 worked for Philip Morris from '91 to '96 that
14 Philip Morris had a philosophy about tort
15 reform and product liability that was similar
16 to yours, correct?

17 A. Yes.

18 Q. Why do you suppose the tobacco
19 industry is concerned about product liability
20 law and tort reform? The tobacco industry,
21 why would they be concerned about that?

22 A. Because they have enormous
23 exposure.

24 Q. And what is that exposure?

25 A. To claims that people who smoked

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1 for a large number of years now suffer health
2 ailments that are due to their smoking.

3 Q. And you believe that smoking does
4 cause illness?

5 A. Yes.

6 Q. Then why would you be in favor of
7 making it more difficult for claimants
8 suffering tobacco-related illnesses to bring
9 claims against tobacco companies in your tort
10 reform and product liability packages?

11 A. Well, I wouldn't style them as
12 mine. But in a general sense, I think people
13 ought to be held responsible for their
14 actions. My father will not stop smoking. He
15 knows the risks but he continues to smoke.
16 And people ought to be held responsible for
17 their behavior.

18 Q. So the tobacco industry support of
19 products liability and tort reform to make it
20 more difficult for people to bring claims is
21 because people ought to suffer the
22 consequences of their actions? Is that
23 basically what your answer is?

24 A. I'm not certain where this is
25 going. If society deems that tobacco is such

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1 a positive ill that it ought to -- that people
2 ought to not smoke, we ought to outlaw it. I
3 mean, you know, either we say alcohol,
4 tobacco, fast cars, sedentary life-style, red
5 meat are choices for which there may be bad
6 consequences, or we ought to outlaw those
7 choices. That's my view.

8 Q. There is protein in meat, isn't
9 there?

10 A. Sure. There is protein in soy as
11 well.

12 Q. And in calcium and cheese and
13 milk, correct?

14 A. Sure, right.

15 Q. But you could get a lot of
16 cholesterol from eating a lot of cheese and
17 drinking a lot of milk, couldn't you?

18 A. Right.

19 Q. And you could get sick and have
20 heart disease from all the fat from eating a
21 lot of meat?

22 A. From a sedentary life-style, from
23 life-style choices.

24 Q. There is some good and some bad,
25 but there is some nutrition value to meat and

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1 to cheese and to milk. What nutritional value
2 does tobacco have?

3 A. I'm not here to defend tobacco.

4 I'm not here to defend nutritional value.

5 Q. I understand that.

6 A. I feel really like I'm not --

7 you're asking me a series of questions about a

8 very complicated issue, and impuning a

9 knowledge -- a level of knowledge regarding

10 tobacco's views on specifics of tort reform

11 and product liability that I can't answer.

12 Q. I understand that, Mr. Rove, and I

13 want to be fair to you. What I'm interested

14 in is tobacco.

15 A. I know.

16 Q. And I will represent to you that

17 the tobacco industry has been behind and has

18 funded a large part of the effort in product

19 liability and tort reform for a specific

20 purpose, to limit the ability of claimants to

21 bring claims against the industry.

22 My question to you with that in

23 mind, assuming that is correct now -- let me

24 finish my question -- assuming that is

25 correct, assuming that is correct, then would

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1 you still be in favor and are you still in
2 favor of those restrictions which would
3 deprive people from being able to bring claims
4 more easily against the tobacco industry?

5 A. I know that insurance companies
6 and manufacturers and small businesspeople
7 also support tort reform, and I would find it
8 hard to believe that they're all acting simply
9 as dupes of the tobacco industry. I do not
10 know the specifics of the tobacco industry's
11 specific views on specific parts of tort
12 reform. I do know enough about tort reform to
13 know that it is a complex issue in which there
14 is a pretty broad consensus among a great many
15 people in the business community and among
16 various types and sizes of businesses that
17 something must be done.

18 Q. Would you be prepared to say
19 today, Mr. Rove, that you support and are in
20 favor of tort reform and products liability
21 and restrictions on frivolous lawsuits and to
22 exclude tobacco and say it's a different
23 category, it's a legitimate claim, it's a
24 claim that does kill people and it's harmful
25 and claims of family and friends who have died

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1 of tobacco should be able to be brought?

2 A. That's an interesting line of
3 argument. I think if society wants to follow
4 that line argument, we need to take the next
5 logical step which is to say it should not --
6 tobacco should not be allowed. You can't make
7 to me that argument plausible unless you're
8 willing to make that step.

9 Q. In other words, that's your remedy
10 is to outlaw it rather than to make it more
11 easy for people to recover and bring claims?

12 A. Right.

13 Q. You've worked for Philip Morris
14 for six or seven years. Hasn't it been Philip
15 Morris' message in Texas in all of their
16 activities that you have experienced, that the
17 case against cigarette smoke and illness and
18 nicotine and addiction has not been proven?

19 A. Look, that's not my line of
20 activity. My activity has been advising them
21 on political races.

22 Q. You can't answer the question of
23 what Philip Morris' message is to your
24 understanding?

25 A. You said in my activities.

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1 Q. From your experience. You can

2 only speak from your experience.

3 A. Would you repeat the question?

4 Q. From your experience, are you able

5 to say, whether or not Philip Morris' message

6 or part of the message to Texas and to Texans

7 is that the case against cigarette smoking is

8 not proven, the medical and scientific case is

9 not proven, that there's still an open

10 question, still a controversy, still a need

11 for research?

12 A. I don't know if I would agree that

13 that was their message. It might have been.

14 My view is that that is pretty well proven

15 that there is a link between smoking and

16 illness.

17 Q. I'm interested what you know about

18 Philip Morris' message to Texas from all your

19 work.

20 A. No. I wouldn't know -- I would

21 not see that as their message.

22 Q. Has it been their message that we

23 agree with the consensus of the medical and

24 scientific community that cigarette smoke does

25 indeed cause various illnesses? Has that been

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1 their message?

2 A. I'm not sure that's a message that
3 has been -- over a six-year period, I can't
4 think of a single instance in which they
5 address the issue directly except in the case
6 of this lawsuit.

7 Q. You can never address the fact
8 that Philip -- you can't tell me that from the
9 time you've experienced -- you've had
10 experiences with Philip Morris that they've
11 ever agreed that cigarettes cause illness?

12 A. That's a different question. You
13 said in Texas, and that was the message that
14 they gave nationally in their testimony and so
15 forth. But you asked me --

16 Q. It was the same message in Texas,
17 wasn't it?

18 A. To the extent that the people
19 watched the national news and read wire
20 reports from the national media, yes.

21 Q. Fair enough.

22 A. Again, I don't remember a specific
23 instance in which I ever read a newspaper
24 quote of Jack Dillard saying there is no link
25 between smoking and health effects.

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1 Q. I'm not getting that specific, Mr.
2 Rove. You can't give me a single instance
3 when the tobacco industry gave Texans or Texas
4 a message different than that given
5 nationally?

6 A. Correct.

7 Q. And the same thing about
8 addiction. That it is not an addictive drug?

9 A. No, I can't remember.

10 Q. And have you given -- have they
11 given any message different than they have
12 been giving all across the country that they
13 don't target Texas children?

14 A. They have done some advertising
15 I'm aware of, because I see it at my corner
16 shoppers mart where they are attempting to say
17 don't market to children.

18 Q. Their message in Texas has been
19 that we don't target children and we don't
20 want to target children?

21 A. Right.

22 Q. That has been their message?

23 A. Right.

24 Q. Would it surprise you if internal
25 company documents reveal that they in fact

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1 want to and do target children? Would it

2 surprise you?

3 A. No, it would not.

4 Q. So they've been lying to Texans

5 and the State of Texas, haven't they?

6 A. In a way, yes.

7 Q. Are you familiar with a document

8 called the Frank statement?

9 A. No, I'm not.

10 Q. The tobacco industry pledged in

11 the 1950s that when the news started coming

12 out of the various scientific and medical

13 research that cigarettes have a link to

14 cancer, lung cancer, the tobacco industry

15 collectively issued a statement or pledge that

16 they would cooperate with public health

17 officials and that they would do all the

18 research that money could buy. And that they

19 would find the answers or work to find the

20 answers. And when they found the answer and

21 they knew whether or not it actually caused

22 lung cancer and caused other illnesses they

23 would get back to us and tell us.

24 Are you familiar with that? Have

25 you heard about it?

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1 A. I haven't.

2 Q. Well, I'm representing to you that
3 they did that. Do you believe that the
4 tobacco industry has an obligation to
5 Texans -- you are a man who is close to the
6 Governor. You are a man who is in a very
7 important position in Texas and has
8 influence.

9 Do you believe that an industry
10 who pledged to reveal to public officials in
11 Texas and health officials in Texas to tell us
12 the truth and tell us what they find out about
13 the link between cigarettes and disease, that
14 they have an obligation to fulfill that
15 promise and tell us that?

16 A. Sure.

17 Q. And do you believe that if they
18 don't, then, that they've breached their duty
19 to Texas?

20 A. Sure.

21 Q. Are you familiar with a gentleman
22 named Andrew Whist, spelled W-h-i-s-t?

23 A. Never heard of him.

24 Q. Are you familiar with an
25 organization called the New York Society for

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1 International Affairs?

2 A. I've read about it recently in the
3 newspapers.

4 Q. Wall Street Journal?

5 A. Right.

6 Q. That's the one that apparently
7 paid for a trip sponsored by the National
8 Governor's Association for various public
9 officials around the country. Is that the
10 same one we're talking about it?

11 A. I believe so.

12 Q. Governor Fordice of Mississippi
13 was one, to your recollection?

14 A. I don't recall.

15 Q. But you do recall reading the
16 article?

17 A. Right.

18 Q. All right. Do you know from your
19 work as consultant to Governor Bush and in
20 your knowledge about Texas politics, are you
21 aware of any specific instance in which the
22 New York Society for International Affairs
23 paid for or funded trips by public officials
24 in Texas?

25 A. I know that this was raised in

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1 conjunction with a trip to Latin America by
2 Senator Jeff Wentworth, because they funded it
3 through the council on governments of which
4 he's an executive -- member of the executive
5 committee.

6 Q. Do you know a man named Ed
7 Beauchemin?

8 A. I don't.

9 Q. Let me spell it.
10 B-e-a-u-c-h-e-m-i-n. He is a lobbyist for
11 Philip Morris right here in [DELETED]

12 A. Don't know him.

13 Q. You don't know him?

14 A. (Witness shakes head.) As I said,
15 I never attended lobby meetings for Philip
16 Morris.

17 Q. You're not aware of -- aware of
18 any trips paid by this society for any Texas
19 public officials?

20 A. Other than the ones I mentioned.

21 Q. Other than the ones you
22 mentioned. All right.

23 What about a representative or
24 Senator David -- is it Calm or Culp, C-a-l-m
25 or C-a-l-n?

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1 A. David Cain, C-a-i-n?

2 Q. Do you know if -- do you know
3 personally if he was a guest of this society?

4 A. I have no idea. Democrat state
5 senator.

6 Q. And what about Jeff Wentworth that
7 you mentioned?

8 A. Yes.

9 Q. Democrat or Republican?

10 A. Republican. Client of mine.

11 Q. You did not know that he went on
12 this trip paid for by this society that's
13 funded by Philip Morris?

14 A. No. Not until it was reported in
15 the newspaper.

16 Q. Did you ever hear of this
17 organization before the articles in the
18 newspaper?

19 A. No.

20 Q. Do you know if the tobacco
21 industry has credibility in Texas among Texas
22 voters and the public in Texas?

23 A. Among smokers it does, but
24 generally no.

25 Q. What about in state government?

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1 A. No.

2 Q. It does not?

3 A. (Witness shakes head.)

4 Q. Why do you believe that is? I'm
5 asking for your expert opinion in that.

6 A. It's a controversial industry.

7 It's like anyone, with all due respect, trial
8 lawyers, alcohol and tobacco. They all are
9 players because of various factors. But there
10 is a sense by the vast majority of state
11 officials that all three have troublesome
12 aspects to them.

13 Q. So your answer is that they lack
14 credibility; is that right?

15 A. Right.

16 Q. Is it because they're not
17 trustworthy?

18 A. They're a highly controversial
19 industry.

20 Q. We should trust what they say? I
21 mean, when I say "we," I'm not talking you and
22 I. I'm talking about Texans.

23 A. People ought to look at the
24 facts. I don't want to engage in blanket
25 condemnations of any of the groups we've

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1 talked about. But I think that when any of
2 the groups that I talk about and others --
3 gambling, for example -- want to make an
4 approach to the people of Texas they have to
5 do so with an awareness that it's going to be
6 an awful tough sell.

7 Q. The controversy that you're
8 talking about is that there is a lot of
9 illness surrounding cigarette smoke. They
10 manufacture cigarettes. Isn't that basically
11 it?

12 A. Correct, yeah.

13 Q. You were a consultant to Philip
14 Morris at one time. I'm going to ask you to
15 put on a Philip Morris hat today. And you
16 tell me -- let's assume hypothetically that
17 you are now a consultant to Philip Morris
18 again on the issue or the question of how do
19 you improve your credibility in Texas. Tell
20 me how Philip Morris would improve its
21 credibility in Texas.

22 A. That was never my role with them.

23 Q. I understand. I'm asking you to
24 do that. You're a political consultant.
25 You're familiar with the mood and the

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1 landscape in Texas. Tell me how Philip
2 Morris, if you were advising them, could
3 improve their credibility in Texas.

4 A. Solve the problem.

5 Q. What do you mean?

6 A. Get a settlement. Get an
7 agreement. Get clear operating rules that
8 you're going to go forward with.

9 Q. Should they admit that cigarettes
10 in fact cause disease?

11 A. Yeah.

12 Q. They should admit that
13 particularly if their own internal research
14 concludes that but they've never told us;
15 isn't that right? If in fact it has done
16 that, it's concluded it in their internal
17 research but haven't told us, one way for them
18 to improve that credibility would be for them
19 to tell us, correct?

20 A. I guess.

21 Q. All right. Would one way be to
22 pay for the damage they've done?

23 A. Again, it depends. If the damage
24 is money that they've cost taxpayers, that's
25 the decision for a court to make and one could

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1 make a reasonable case for that. Damage that
2 individuals have suffered themselves, again I
3 get back to the question, Does my father
4 smoking knowing that it's causing ill health
5 effects?

6 Q. We've been over that. I'm talking
7 about to Texans.

8 A. That's for a court to decide, but
9 you could make a reasonable case.

10 Q. One way to improve their
11 credibility would be to pay for the damage
12 they've done to Texas taxpayers, wouldn't it?

13 A. Sure.

14 Q. What is your relationship with a
15 gentleman named Jim Frances?

16 A. Close personal friend.

17 Q. Been in business with him?

18 A. No.

19 Q. Ever been in business with him?

20 A. No.

21 Q. Has he ever been a stockholder in
22 any company that you own stock in?

23 A. No. Well, I shouldn't say that.
24 I don't know if he owns any Johnson & Johnson
25 or any --

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1 Q. No, I'm talking about a company
2 like Karl Rove & Company or some other small
3 corporation that you have.

4 A. No.

5 Q. Do you know if he has any
6 connection or relationship with the National
7 Smokers Alliance?

8 A. I have no idea.

9 Q. You don't know?

10 A. I don't know.

11 Q. Do you know whether or not he's a
12 consultant, a paid consultant, to the National
13 Smokers Alliance?

14 A. I don't know.

15 Q. What is your relationship with
16 Jack Dillard?

17 A. Jack was my point of contact at
18 Philip Morris for much of the last five, six
19 years.

20 Q. How often do you have contact with
21 him now?

22 A. I've maybe talked to him twice in
23 the last eight, nine months.

24 Q. Was it relating to tobacco?

25 A. It's relating to -- one instance

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1 was relating to a Philip Morris contribution
2 to the Republican party in Texas, and I think
3 the other one was regarding some RGA
4 business. But I can't recall specifically
5 what it was.

6 Q. Did you contact him or he contact
7 you?

8 A. He contacted me. Both instances
9 may have been -- both may have been instances
10 where it was regarding contributions to the
11 Republican Party of Texas.

12 Q. What is your relationship with Jed
13 Bush?

14 A. He's the -- he's a friend.

15 Q. Do you have any kind of business
16 relationship with him?

17 A. No.

18 Q. Do you have any relationship or
19 your business have any relationship with
20 Compaq Computers?

21 A. We used to represent Compaq.

22 Q. "We" meaning Karl Rove & Company?

23 A. Karl Rove & Company. In the '96
24 election, same kind of advice that we gave
25 Philip Morris regarding the best use of their

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1 very, very small PAC dollars.

2 Q. Do you anticipate doing any
3 business with Compaq Computers --

4 A. No.

5 Q. -- in the future?

6 A. No.

7 Q. Who is Bill Miller?

8 A. Local public relations/public
9 affairs consultant.

10 Q. What, if any, relationship do you
11 have with him?

12 A. Friend.

13 Q. Do you do any business?

14 A. Not that I'm aware of.

15 Q. Have you ever done business with
16 him?

17 A. No. We've been involved in some
18 of the same enterprises, but -- political
19 campaigns and so forth. But, no, we do not do
20 business together.

21 Q. What does MEM stand for? Do you
22 know?

23 A. Mary Ellen Miller.

24 Q. What is that?

25 A. His mom.

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1 Q. And what is that? I know what his
2 mother is.

3 A. His mother originally started the
4 business many years ago. She's originally
5 from Mobile, Alabama.

6 Q. It's a public relations outfit?

7 A. Public relations, political
8 consulting, PR firm.

9 Q. What is your relationship, if any,
10 with Ken Hogland?

11 A. I have no idea who that is.

12 Q. To the best of your knowledge, you
13 don't know Ken Hogland?

14 A. I don't recognize that name.

15 Q. Did you ever meet with Mr. Dillard
16 or have conferences or meetings with
17 Mr. Dillard where Mr. Hogland was involved?

18 A. Could have been, but I don't
19 recall.

20 Q. Does the name State Affairs
21 Company ring a bell?

22 A. Yes.

23 Q. Does that refresh your memory of a
24 Ken Hogland, State Affairs Company?

25 A. I know the principals in the State

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1 Affairs Company, John Davis and Charles

2 Frances.

3 Q. You've never heard of Ken

4 Hogland?

5 A. I may have met Ken Hogland.

6 Q. It doesn't ring a bell?

7 A. No.

8 Q. Do you deal with State Affairs

9 Company?

10 A. I've talked to them every year or

11 two, yeah. But, I mean, Charles Frances is a

12 personal friend of mine. I know John Davis.

13 Haven't known him well, but known him for a

14 long time.

15 Q. Mr. Rove, it has been argued, it

16 has been said that, look, even if the tobacco

17 industry lied to Texas regulators and Texas

18 lawmakers and Texas public officials, health

19 officials, the Governor, not just Bush, but

20 other governors in the past, the state health

21 department, the public, even if the tobacco

22 industry lied to them about the link between

23 smoking and disease and the addictive nature

24 of nicotine, that it wouldn't have made a

25 difference, that there would have been no more

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1 regulation and there would have been no more
2 restrictions and there would have been no more
3 laws in the area of taxation, in the area of
4 use restrictions, in the area of preemption,
5 in the area of youth access laws, in the area
6 of revenue raised on syntaxes to pay for
7 improvements in indigent health care, Medicaid
8 and others, that nothing would have been done
9 differently in Texas. I represent to you that
10 that has been argued, and I'm going to ask you
11 a couple of questions.

12 Do you believe, Mr. Rove, that if
13 the tobacco industry in the 1960s and in the
14 1970s and in the 1980s came to Texas lawmakers
15 and regulators and health officials and came
16 to your Governor's office and said our
17 internal research at our companies from the
18 best scientists has reached a conclusion that
19 cigarettes cause illness and disease and that
20 nicotine is a drug, and as a matter of fact,
21 we have reports from our physicians that say
22 nicotine is a drug in the same fashion as
23 Cocaine and Heroin, do you believe that they
24 would have had the same type of reception by
25 Texas regulators and lawmakers as they have

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1 had over the last few decades? You're a
2 political consultant.

3 A. Probably not.

4 Q. In other words it's true, isn't
5 it, Mr. Rove, that it would have been very
6 difficult politically for Texas lawmakers and
7 regulators to take positions that the tobacco
8 industry wanted them to take over these past
9 years on all these issues, if in fact the
10 industry told the truth and told everything
11 that it knew about the harmful effects of its
12 products. It would have been difficult if
13 they came out and said, Look, here is what we
14 know about the product, we're the
15 manufacturer, we know more than anybody about
16 it, here is what we have concluded. It would
17 have been tough, wouldn't it?

18 A. Perhaps. But I mean, you know, my
19 suspicion is 30 some-odd years ago a lot more
20 people were smoking than today. And my
21 suspicion is that there would have been some
22 accommodation between the industry and
23 regulators and there would have been an
24 equilibrium created and things would have gone
25 on. Unless society is willing to say, We're

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1 going to treat tobacco the same way as Cocaine
2 and Heroin and make its possession something
3 that sends you up the pokey for a good number
4 of years, I think there is going to be an
5 attempt by policy makers to reach an
6 accommodation.

7 Q. What if the tobacco industry sent
8 somebody down to Texas and said, Look, we want
9 you to pass this legislation that prevents
10 local communities from passing youth access
11 laws, that would restrict law enforcement,
12 public health officials at the county level
13 and at the municipal level to restrict them
14 from being able to combat access to tobacco by
15 minors, we want this legislation, and here is
16 what we want. We the tobacco industry need
17 replacement smokers. We've got to have the
18 kids. We've got to replace people who die.
19 We've got to have the Texas children,
20 teenagers, smoke.

21 And so these laws are standing in
22 the way. These laws are restrictive and they
23 make it difficult and we need this market for
24 the future if we're to survive. Do you think
25 that would have made a difference in the way

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1 regulators and lawmakers would have fought it?

2 A. Sure.

3 Q. Absolutely, wouldn't it?

4 A. Sure.

5 Q. Would it surprise you if there are
6 internal company documents that say just that?

7 A. No.

8 Q. Do you believe that if they felt
9 that way and believed that that they should
10 have told Texans?

11 A. If they --

12 Q. Industry.

13 A. Was this the opinion adopted by
14 the company as its policy? I get within my
15 own business memorandums from people who say
16 we ought to say X, Y or Z that as a chief
17 executive I have to make a decision whether I
18 accept it or not. I'm confident there is a
19 document someplace in a very large company
20 that says something like what you say. But
21 was that the company's policy? Did the people
22 at the top say we agree and we believe the
23 evidence is credible and we find this to be
24 our position?

25 Q. But if the industry as a whole

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1 targeted kids and came and told lawmakers and
2 regulators and public health officials and the
3 Governor in Texas that we want a replacement
4 market and we want weak laws on youth access,
5 they wouldn't have gotten a reception in Texas
6 and things would have been different as far as
7 the regulation in Texas, wouldn't they?

8 A. Sure.

9 Q. It has been argued, Mr. Rove, that
10 the whole fault of this indigent care expenses
11 on tobacco-related illnesses, if there is any,
12 is the fault of Texas. It's Texas' fault.
13 It's lawmakers' faults. It's regulators'
14 fault. It's not our problem. That they could
15 have done this, that and the other. They
16 could have passed laws to increase taxes on
17 cigarettes. They could have restricted youth
18 access laws and made them more difficult or
19 more strict. They could have done all of
20 these sorts of things but they didn't.

21 But on the other hand, if in fact
22 the industry worked hard and lobbied to defeat
23 legislation that they saw against their
24 interest and to promote legislation that they
25 saw in their interest, aren't they in part to

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1 blame? That's my question.

2 A. That's up to a court to decide.

3 Q. Well, I know the court will decide

4 it, but in your opinion as a political

5 advisor --

6 A. That's up to a court to decide.

7 You're asking a very thorny question of law

8 that I don't feel qualified to answer.

9 Q. I'm not asking a legal question.

10 Let me ask it another way. I'm not asking a

11 legal question.

12 If someone says you've done this

13 to yourself and there is a problem, you've

14 hurt yourself in this way and you ought to

15 simply just take the consequences, but what if

16 I played a role in you hurting yourself or I

17 blocked you from doing something that would

18 have prevented you from hurting yourself,

19 wouldn't I be partly responsible too?

20 A. Depends on the amount of knowledge

21 I had about the consequences of my action.

22 You really have gotten into a very thorny

23 question of law which is why we have a judge

24 and a jury and Federal Rules and Federal

25 procedure. I'm sure you understand it far

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1 better than I do, but I'm not going to be able
2 to give you a cogent answer here. You're
3 asking me to be a lawyer and I'm not.

4 Q. I'll give you a specific. There
5 is a proposal to increase excise tax on
6 cigarettes in order to help defray some of the
7 costs of tobacco-related illnesses that you
8 and I pay for as taxpayers. I'm not a
9 taxpayer of Texas, but you are.

10 A. Right.

11 Q. And the tobacco industry puts all
12 its muscle to defeat that legislation so that
13 the price of cigarettes doesn't go up and they
14 have a reduced sales and less profit.

15 A. Right.

16 Q. And then the taxpayer gets even a
17 larger bill because there is less revenue as a
18 result of this tax increase being defeated.
19 And the tobacco industry fought it all the way
20 and ensured that either it died in committee
21 or that it never got a vote or whatever. They
22 blocked it or helped defeat it. Shouldn't
23 they be in part responsible for that cost if
24 they lobbied and worked hard to defeat any
25 attempt by the legislature to increase taxes?

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1 A. Again, if we're dealing here with
2 a question of equity and if we're saying that
3 if you block a tax to solve a problem that's
4 created by your good or service, then you've
5 got to establish on the other side that they
6 get an advantage from any benefit to the
7 taxpayer that that good or service causes.
8 You and I have seen the same set of studies by
9 relatively reputable people untied to the
10 industry which say we're at -- an article I
11 think at the American Enterprise Institute
12 Magazine recently where they said these people
13 prematurely die. Are we so callus as to say
14 because you killed off a guy before we need to
15 pay out all of the Social Security and all of
16 the normal Medicaid that in addition to
17 charging you with the debit side of the ledger
18 we're go to credit you with this side of the
19 ledger because you opposed a tax increase?

20 Q. All right, Mr. Rove, we're getting
21 far off here.

22 A. Yes. And the other instance is
23 are we going to hold people responsible for
24 exercising their first amendment rights to
25 oppose or support a particular legislative

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1 action?

2 Q. In sworn testimony in the
3 Mississippi tobacco litigation, the vice
4 president of the tobacco institute identified,
5 and I'll represent to you, that consistently
6 for years and years and years not only in
7 Mississippi but everywhere they have done
8 everything that they could, "they" being the
9 tobacco industry, to block any legislation
10 that would have increased taxes to pay for
11 health care or to pay for Medicaid. That they
12 did everything that they could to block
13 legislation against use restriction, less
14 smoking in various places, et cetera.

15 I'm saying if in fact that is
16 true, and I'm assuming he testified
17 truthfully, I have no reason to doubt that,
18 that he testified truthfully that they've done
19 everything. And then he concludes by saying
20 we are really good at what we do and we've
21 done a successful job and we have done a
22 tremendous job in fending off all these
23 efforts, then is not the tobacco industry in
24 part responsible for the result that Texas
25 finds itself in?

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1 A. Any industry or profession which
2 takes a policy perspective like the one that
3 you outlined, sure, bears responsibility for
4 it.

5 Q. All right.

6 MR. MIKHAIL: Let's take a
7 short break. We're going to very quickly look
8 at the documents, and I want to confer with
9 co-counsel and then we might be able to wrap
10 it up pretty soon. I don't know what kind of
11 documents you have.

12 THE VIDEOGRAPHER: Off the
13 record.

14 (A recess was taken.)

15 THE VIDEOGRAPHER: On the
16 record.

17 Q. (By Mr. Mikhail) You mentioned a
18 few moments ago that people or groups or
19 entities or citizens have a right to lobby
20 legislators, they have a First Amendment
21 right. Where did you hear that argument?

22 A. Right of free speech. People have
23 a right to have an opinion and speak about it.

24 Q. Did you get that argument from and
25 as a result of your association or connection

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1 with the tobacco industry as it relates to
2 their activities in Texas?

3 A. No.

4 Q. Was it just your general
5 knowledge?

6 A. I think I picked it up from Elton
7 J. Tollman.

8 Q. Who is he?

9 A. My high school civics teacher.

10 Q. When you were a consultant for
11 Philip Morris, was that part of the arguments
12 that they asked you to harp on, or at least
13 use if challenged or criticized or in any way
14 your motivations were questioned having or
15 being a consultant to the tobacco industry,
16 being the controversial business that they're
17 in, was that something that they ever advised
18 you or instructed you or informed you to make,
19 First Amendment?

20 A. No.

21 Q. They never did that with you?

22 A. No. Because, again, my job was
23 not to advocate for them. My job was to give
24 them political intelligence about political
25 races so they could make the most effective

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1 use of their political dollars.

2 Q. Mr. Rove, you talked a lot about
3 in your testimony, and you seemed passionate
4 about individuals taking responsibility. You
5 believed in individual responsibility, didn't
6 you?

7 A. Yes.

8 Q. And that was in the context of
9 your aversion to and opposition to frivolous
10 lawsuits and the way you believe the system
11 was set up where it lent itself to frivolous
12 lawsuits; isn't that right? That's basically
13 what you testified?

14 A. Yes.

15 Q. Do you believe -- in the same way
16 that you believe that individuals ought to be
17 responsible, do you also believe that
18 corporations ought to be responsible?

19 A. Sure.

20 Q. So you believe in corporate
21 responsibility in the same way that you
22 believe in individual responsibility?

23 A. Sure.

24 Q. Correct?

25 A. Yes.

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1 Q. And do you believe that
2 corporations ought to be responsible for
3 fraud, if they commit fraud they should be
4 held responsible?

5 A. If the laws are so written, yes.

6 Q. What do you mean "if the laws are
7 so written"?

8 A. Well, I don't believe -- I believe
9 companies, unlike -- you know, individuals get
10 held responsible for their actions both in the
11 legal and in nonlegal context. Companies get
12 held responsible in a legal and nonlegal
13 context. Company may -- if the law describes
14 a responsibility of the company that it
15 breaks, then it's responsible under the law.
16 Company can also be held responsible by public
17 opinion. I can make a decision that my wife
18 will not buy Texaco gasoline.

19 Q. You're making that distinction.
20 If there is a law, and I don't know anywhere
21 in the United States that fraud is permitted,
22 there are laws against fraud everywhere.
23 Certainly there are laws against fraud in
24 Texas; isn't that right?

25 A. Right.

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1 Q. You believe that corporations in
2 Texas ought to be responsible if they commit
3 fraud under the law?

4 A. Sure.

5 Q. Do you believe that they ought to
6 be responsible for lying and
7 misrepresentation?

8 A. If it's a violation of the law,
9 yes.

10 Q. You believe that they are
11 responsible for their actions that are in
12 violation of law in the same way that you
13 believe individuals ought to be responsible?

14 A. Sure.

15 Q. All right. Now, you had a problem
16 with frivolous lawsuits clearly, and there was
17 no question from your testimony that you have
18 a real problem; isn't that right?

19 A. Yes.

20 Q. But you're not opposed to all
21 lawsuits, are you?

22 A. No.

23 Q. So you believe -- I mean, there
24 are many circumstances where lawsuits would be
25 perfectly acceptable to you?

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1 A. Sure.

2 Q. Similar or in the same way that
3 when you felt and believed that someone owed
4 you money, one of your clients owed you money
5 under a contract that you had with that client
6 and they broke their contract and didn't pay
7 you, you sued them, didn't you?

8 A. Yes.

9 Q. And you don't have a problem with
10 a lawsuit in order to recover under a contract
11 when the other party breaches its contract?

12 A. No.

13 Q. Regardless of whether or not you
14 agree, regardless of whether or not you agree
15 with whether a party should have entered a
16 contract with another party -- let's say
17 someone didn't think it was a good idea for
18 you to have entered a contract with the
19 company that you sued, okay? Regardless of
20 whether or not someone would agree that you
21 should have entered into the contract, once
22 the contract was made and it was breached, you
23 have no problem with seeking legal redress,
24 filing a lawsuit in order to recover under
25 that contract; isn't that right?

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1 A. Right.

2 Q. Do you believe, Mr. Rove, that
3 consumers in Texas should be informed by a
4 manufacturer of a product that is available to
5 consumers of the identity of carcinogens,
6 cancer-causing agents in that product?

7 A. I don't know. That requires
8 expertise beyond my level.

9 Q. Okay. We're not talking about
10 manufacturing process or advertising or
11 marketing. I'm telling you you use a certain
12 product. You're drinking that juice. If in
13 fact there were 64 separate carcinogens,
14 carcinogens that are identified by the
15 manufacturer and by the Surgeon General and by
16 other health officials in that juice that you
17 drank but it's not on that bottle to inform
18 you that specific carcinogens are in that
19 bottle, do you feel that a consumer is
20 entitled to know that there are carcinogens
21 and what carcinogens are in the product
22 they're consuming?

23 A. Well, yes, with the caveat that
24 Saccharin, I mean, is a carcinogen. And yet
25 people use it and use it effectively all the

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1 time. And the trade-off between obesity and
2 the increase, the minute increased risk, from
3 cancer is minute.

4 Q. You weren't pointing to me when
5 you said "obesity," were you?

6 A. No, I wasn't. I was gesturing
7 broadly. Sorry that you're sensitive about
8 it.

9 Q. Isn't Saccharin when it is present
10 in a product identified as being present in a
11 product?

12 A. I don't know. You're getting way
13 past my experience.

14 Q. Then try to answer the question
15 the best you can. Do you believe that a
16 consumer product that contains known
17 carcinogens that the consumer is entitled to
18 know the identity of the ingredients, of the
19 carcinogen ingredients in the product?

20 A. If the ordinary use of that
21 product involves health risks, they ought to
22 be told there is a health risk, yes.

23 Q. What about the identity of the
24 carcinogens?

25 A. I don't have an opinion on that.

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1 I frankly rather somebody say, hey, this can
2 kill you rather than this contains
3 onthodioxofindyoxolade (sic). I'd rather be
4 told that this will hurt me than necessarily
5 to be told there is an element.

6 Q. You want to be told that rather
7 than the actual chemical compound listed on
8 the bottle? You would want to be told by the
9 manufacturer that this stuff can kill you?

10 A. I guess. You're beyond my --

11 Q. Right. But the manufacturer ought
12 to tell you that this stuff can kill you,
13 shouldn't they, if it does?

14 A. If the ordinary use of it kills
15 you.

16 Q. Yes. What if there was an
17 ingredient in the product that is known to be
18 radioactive with the health consequences of
19 radiation to the body, to the human body? Do
20 you believe that that is something that the
21 manufacturer ought to inform?

22 A. Again, does the ordinary exposure
23 of -- I'm the son of a geologist -- does the
24 ordinary exposure to the radioactive element
25 cause an increase risk to the health of an

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1 appreciable nature? Yes. If not, no. I
2 don't need to be told that I've got a mildly
3 radioactive dial on my watch when it causes no
4 health risk.

5 Q. And that's the standard in your
6 mind?

7 A. Yes, does it cause --

8 Q. Whether it's an appreciable --

9 A. Does it cause harm? There is no
10 appreciable harm for me having a radioactive
11 dial on my watch. So I don't need to be told
12 by the manufacturer of my watch this is
13 radioactive.

14 Q. But if it has an appreciable
15 health effect --

16 A. Sure. Through the ordinary use of
17 it causes appreciable health effects --

18 Q. Causes appreciable health.

19 A. Right.

20 Q. Death would be an appreciable
21 health effect, wouldn't it?

22 A. Well, or serious illness.

23 Q. All right.

24 MR. MIKHAIL: Give me just a
25 moment. We're not going off the record. Give

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1 me just a moment.

2 Q. (By Mr. Mikhail) I will ask one
3 more question. Maybe your counsel could
4 understand this. I sent a notice of this
5 deposition to opposing counsel in the
6 litigation. And, of course, the record
7 reflects that no one showed up representing
8 the tobacco defendants.

9 Did you, Mr. Rove, know whether or
10 not any representative of the tobacco
11 defendants in this action was or was not going
12 to show up today?

13 A. No. As you asked me earlier, I
14 have had no contact with Philip Morris or its
15 counsel. I would not be in a position to
16 know.

17 Q. Your answer is you don't know?

18 A. Not unless I read it in the
19 newspapers or received an anonymous message,
20 neither of which happened.

21 Q. You don't know?

22 A. Right.

23 MR. MIKHAIL: I don't have
24 anything else.

25 I think you're going to make

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1 your court hearing.

2 MR. THOMPSON: You may want
3 to mark the exhibits. You want to mark
4 anything?

5 MR. MIKHAIL: I don't want to
6 make them exhibits to the deposition. It's
7 pretty big. You talking about the whole
8 file?

9 MR. THOMPSON: No problem.

10 MR. MIKHAIL: Let's just take
11 them. Unless you feel under your Rules it
12 would be necessary. I hate to clutter the
13 deposition unless your Rules require the whole
14 document.

15 MR. SCHWARTZ: You're going
16 to have a hard time relating them back to the
17 deposition unless you want to put a --

18 MR. LAWRENCE: I would put a
19 sticker on them.

20 MR. THOMPSON: I would put a
21 sticker on them and say these are the
22 documents that you brought to the deposition.

23 MR. LAWRENCE: I don't want
24 to give you legal advice.

25 MR. MIKHAIL: Sometimes

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1 different places do it differently. I never
2 had any trouble with my judges, but I can see
3 that.

4 Q. (By Mr. Mikhail) Mr. Rove, have
5 you had an opportunity to look again through
6 the file of documents that you brought with
7 you in response to this subpoena that was
8 served on you?

9 A. Yes.

10 Q. Are these true and accurate and
11 correct copies, authentic copies of the
12 documents that are responsive to the subpoena,
13 the originals of which are in your office?

14 A. Yes. Let me add one note. These
15 documents, many of them were recovered from a
16 document storage unit in which we had put
17 things. Some of these documents do not -- did
18 not come from PM and do not relate to PM. But
19 simply were by secretarial error placed in the
20 file. As a result, I left them there. For
21 example, this document here from Bailey
22 Consulting, you know, I don't --

23 Q. The subpoena did not specifically
24 say that they have to be documents that came
25 from PM. It's documents in any way relate --

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1 A. And some of these I don't
2 believe. This may have no relation to
3 tobacco, but I erred on the side --

4 Q. I appreciate that. But there are
5 no existing documents that would be responsive
6 to the subpoena which are not in this folder?

7 A. Correct.

8 MR. MIKHAIL: Anything else,
9 gentlemen, on the documents? Okay. Thank
10 you, Mr. Rove.

11 THE VIDEOGRAPHER: Off the
12 record.

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